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IRS Issues Final Regulations Updating Minimum Required Distribution Rules

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On November 5, 2020, the Internal Revenue Service ("IRS") released final regulations under section 401(a)(9) of the Internal Revenue Code ("IRC"). 85 Fed. Reg. 72472 (Nov. 12, 2020). The final regulations, which closely follow proposed regulations issued on November 8, 2019, reduce the required distribution amounts from qualified defined contribution plans and individual retirement accounts that generally apply annually after a participant reaches his or her required beginning date.

The amount that is required to be distributed each year is based on an estimate of the expected remaining lifetime of the participant and his or her beneficiary. Compared to the current regulations, which were adopted in 2002, the new regulations generally increase the expected remaining lifetimes of participants and beneficiaries for minimum distribution purposes. This change will tend to reduce the amounts that need to be distributed each year.

The new regulations are a result of Executive Order 13847, which was issued on August 31, 2018 and directed the IRS reevaluate the life expectancies that underlie the required minimum distribution regulations.

A. Background

Qualified defined contribution retirement programs provide tax incentives for participants to save for retirement, and for employers to contribute to retirement plans. These programs include 401(k) plans, 403(b) plan, and individual retirement accounts, as well as certain other similar vehicles. The tax advantages of these plans are intended to encourage retirement income, as opposed to encouraging the transfer of wealth from one generation to the next. Accordingly, section 401(a)(9)(C) of the Code provides for a "required beginning date," which is intended to limit the extent to which the balances in these plans are passed on to beneficiaries, as opposed to being distributed during participants' retirements, and other rules govern post-death distributions of various types.

Section 401(a)(9)(C) defines a participant's required beginning date as the April 1 of the calendar year following the later of (a) the calendar year in which the participant attains age 72, or (b) the calendar year in which the participant retires from employment. Note that the age threshold increased from 70½ to 72 effective in 2020, in accordance with the provisions of the Setting Every Community Up for Retirement Enhancement Act ("SECURE Act") of 2019. After a participant attains his or her required beginning date, qualified defined contribution plans are generally required to pay a distribution each year in an amount equal to the participant's account balance divided by an estimate of the participant and beneficiary's joint expected remaining lifetime as reflected in IRS tables.

B. Final Regulations

The final regulations updated the tables of expected remaining lifetimes for participants and beneficiaries at various ages. While there are some outliers at extreme ages, substantially all of the new figures show longer expected remaining lifetimes than the prior figures. The final regulations generally follow the proposed regulations, with certain exceptions. Specifically, the proposed regulations would have taken effect on January 1, 2021, while the final regulations are not effective until January 1, 2022. Additionally, in conjunction with the one-year delay in the effective date, the life expectancies in the final regulations contain one additional year of mortality projection in comparison with the proposed regulations. The result is that the life expectancies at certain ages are slightly longer in the final regulations.

Some excerpts showing the life expectancies from the regulations currently in effect and the updated regulations that take effect in 2022 are as follows:

Uniform Life Table (generally used for participants at the required beginning date)

Distribution Period			
Age	**Current Regulations**	**Updated Regulations**	**Change**
75	22.9	24.6	7.4%
80	18.7	20.2	8.0%
85	14.8	16.0	8.1%
90	11.4	12.2	7.0%
95	8.6	8.9	3.5%

Single Life Table (generally used for beneficiaries of deceased participants)

Life Expectancy			
Age	**Current Regulations**	**Updated Regulations**	**Change**
70	17.0	18.8	10.6%
75	13.4	14.8	10.4%
80	10.2	11.2	9.8%
85	7.6	8.1	6.6%
90	5.5	5.7	3.6%
95	4.1	4.0	-2.4%

Joint and Last Survivor Table (generally used for participants with a spouse who is 10 or more years younger than the participant)

Joint and Last Survivor Expectancy				
Participant Age	**Spouse Age**	**Current Regulations**	**Updated Regulations**	**Change**
70	60	27.4	29.2	6.6%
70	55	31.1	33.0	6.1%
70	50	35.1	37.1	5.7%
75	65	22.9	24.6	7.4%
75	60	26.5	28.3	6.8%
75	55	30.4	32.4	6.6%
85	75	14.8	16.0	8.1%
85	70	17.9	19.5	8.9%
85	65	21.6	23.3	7.9%

95	85	8.6	8.9	3.5%
95	80	10.9	11.7	7.3%
95	75	13.8	15.1	9.4%

C. Impact of Final Regulations

The impact of the final regulations will be to generally reduce the amounts that are required to be distributed annually from qualified defined contribution plans and individual retirement accounts after participants reach their required beginning dates. This change will allow participants to keep a larger portion of their accounts in the plans for a longer period of time. We expect that the annual required distribution amounts will typically decline by an average of 3% to 10%, depending on the age of the individual, and if applicable, the age of the beneficiary. The final regulations also include a transition period that applies to employees who died prior to January 1, 2022.

The preamble to the final regulations notes that in addition to changing the applicable age for required beginning date purposes from age 70½ to age 72, the SECURE Act also made changes to the rules that apply after the death of a participant in a defined contribution plan. The final regulations do not address these changes, and the preamble indicates that the Treasury Department and the IRS expect that regulations implementing these changes will be forthcoming.

D. Next Steps

The effective date of the final regulations is January 1, 2022. Sponsors and third-party administrators of qualified defined contribution plans should review their systems and procedures in light of the upcoming changes, and begin developing implementation plans. It may also be appropriate to communicate the changes to participants, particularly those who are close to their required beginning dates and who may be in the process of developing retirement income strategies.