

Updated IRS Publication 590-B Provides Insights On Post-Death RMD Rules After the SECURE Act

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While we await proposed regulations under Code section 401(a)(9) to reflect the significant changes made to the required minimum distribution (“RMD”) rules under the SECURE Act, the [2020 IRS Publication 590-B](#) for IRA distributions gives us a look into the current IRS thinking. It also has a nice summary of the disaster relief provisions that apply to IRAs.

A brief summary of the RMD changes reflected in the IRS Publication that applies to IRAs, and which generally also may be applied to defined contribution plans, is set forth below.

When Must You Withdraw Assets? (Required Minimum Distributions)

During Lifetime

The Publication language (pages 7-9) regarding RMDs during the IRA owner’s lifetime largely remains unchanged, except that it (1) updates the “required beginning date” from 70-1/2 to age 72 for those that reached age 70-1/2 in tax year 2020 or later, and (2) includes the special 2020 RMD waiver provisions (and related rollover relief) under the CARES Act.

Post-Death (IRA Beneficiaries)

Owner Died On or After Required Beginning Date

The Publication appears to retain the “at least as rapidly” rule for eligible designated beneficiaries, providing that the RMDs for years after the year of the owner’s death are based on the longer of (1) the eligible designated beneficiary’s single life expectancy, or (2) the owner’s life expectancy. This is rather perplexing due to the statutory language that appears to eliminate this rule as it says the 5-year rule

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applies without regard to whether payments already commenced, and provides an exception for eligible designated beneficiaries (though the exception only refers to the rules when the owner dies *before* the required beginning date). Perhaps the Publication's more favorable interpretation was intended, as it appears to provide for a potentially longer payout period -- as the rules for when the owner dies before the required beginning date don't consider the owner's remaining life expectancy. However, the Publication appears to preclude (based on the description of the 10-year rule at page 11) an eligible designated beneficiary from electing payout over 10 years where payments have already commenced -- such an interpretation appears to be strained following the terms of the statute in any event.

Importantly, it appears that the "at least as rapidly" rule does not apply to designated beneficiaries that are not eligible designated beneficiaries, as the Publication merely references fully distributing within the 10-year payout period (and does not require that any particular minimum amounts be paid each year).

As anticipated, however, if there is no individual designated beneficiary (e.g., estate/charity), the at least as rapidly rule remains applicable.

Owner Dies Before Required Beginning Date

The Publication (pages 10-11) retains the distinction based on when payments commence, with this section updated for the 10-year rule and the ability of only eligible designated beneficiaries to commence lifetime payments. Again, as we anticipated, the 5-year rule remains applicable in cases when there is no individual designated beneficiary. No surprises here.

Figuring the Beneficiary's Required Minimum Distribution

The explanation in the Publication (pages 11-12) largely remains unchanged for calculating the required minimum distribution, and the rules for a beneficiary that is not an individual are, as expected, completely unchanged. However, the example for a non-spouse beneficiary was not updated (allowing a non-minor son to continue payments over his lifetime after the father/IRA owner dies), which we anticipate was inadvertently missed. Also, the retention of the prior language that, upon the death of the designated beneficiary, one may continue to use the designated beneficiary's remaining life expectancy to determine the amount of the distributions is a bit confusing, though the section nevertheless explains the applicable 10-year rule.

Remainder of the RMD Section

The remainder of the RMD section in the Publication (pages 12-14) remains unchanged. Notably, that includes the look-through trust provisions, which is a good sign but does not address how these rules interplay with the SECURE Act changes.

Lastly, we note that, unfortunately, the IRS has not yet updated the chart entitled "[Required Minimum Distributions for IRA Beneficiaries](#)" which would provide even more insight into current IRS thinking.

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So, stay tuned for proposed regulations (and hopefully updated model language) to provide some additional clarity on how the SECURE Act rules work for IRAs and defined contribution plans.

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