

2021 and 2022 RMDs from Inherited IRAs

IRS Provides Some Guidance and Relief via IRS Notice 2022-53

Proposed regulations issued by the IRS in February created confusion and uncertainty about whether some beneficiaries of inherited IRAs are required to take Required Minimum Distributions (RMDs) in 2021 and 2022. Recent guidance from the IRA eliminates confusion for 2021 and 2022 RMDs.

Background

Before the SECURE Act, the beneficiary of an inherited IRA could generally stretch payments over the life or life expectancy of that beneficiary. The SECURE Act shortened the distribution timeframe for most beneficiaries. Now *if the account owner died in 2020 or after*, an inherited IRA generally must be completely distributed to a “designated beneficiary” within 10 years of the account owner’s death.¹

Most tax practitioners read the SECURE Act as *not* necessitating annual RMDs to the designated beneficiary in years 1-9 following the account owner’s death, but rather merely requiring that the account be emptied during the 10th year. However, the IRS issued proposed regulations in February 2022 saying some – but not all – designated beneficiaries would be required to take annual RMDs in years 1-9.

What is a proposed regulation?

The IRS issues regulations with the approval of the Secretary of the Treasury, and those regulations represent the executive branch’s official interpretation of a statute. Proposed regulations do not have the force of law, except that proposed regulations can be cited as authority for avoiding the underpayment of income tax penalty. Not all proposed regulations become final regulations.

SECURE Act proposed regulations

While the proposed regulations potentially clear up confusion on a few issues, one provision caught most taxpayers off guard. For a designated beneficiary such as the adult child of the deceased IRA owner, the proposed regulations would impose different distribution requirements depending on whether the IRA owner died before or after the Required Beginning Date (RBD). The IRA owner’s RBD is generally April 1 of the year following the year the IRA owner turned 72. **The proposed regulations mandate that if an IRA owner who (1) died in 2020 or later and (2) on or after that IRA owner’s RBD, the designated beneficiary must take RMDs in years 1-9 as well as emptying the IRA by the end of year 10.**

¹ Different distribution rules apply if the designated beneficiary is (1) not an individual or look through trust; (2) an “eligible designated beneficiary” who is chronically ill, disabled, not more than 10 years younger than the account owner, or the minor child of the account owner; or (3) the account owner’s surviving spouse. The focus here is on the more common situation in which the IRA owner died in 2020 or later and the “designated beneficiary” does not fit within the three categories listed above.

Proposed Regulations: Distributions to a Designated Beneficiary

	IRA Owner’s Death before RBD	IRA Owner’s Death on or after RBD
Years 1-9 following the death of the account owner	No requirement for annual distributions	Annual RMD, based on the longer of the deceased account owner’s or designated beneficiary’s life expectancy
Year 10 following death of account owner	Entire account balance must be distributed by December 31 of the 10 th calendar year following death of the account owner	Entire account balance must be distributed by December 31 of the 10 th calendar year following death of the account owner

A 50% penalty applies to any RMD amount not taken. Therefore, if the final regulations require inherited IRA RMDs when the IRA owner died after the RBD, and if a designated beneficiary fails to take that RMD, the amount not distributed is subject to a 50% penalty unless the IRS waives the penalty.

The proposed regulations would apply for purposes of determining 2022 RMDs for IRA owners who died in 2020 or 2021. They also potentially impacted some 2021 inherited IRA RMDs, as these beneficiaries may not have known an RMD was required, since the proposed regulations were issued after 2021, in February 2022.

Many comment letters to the IRS in response to the proposed regulations asked the IRS to withdraw the proposal to require annual RMDs in years 1-9. Many others also stated that if the IRS imposes annual inherited IRA RMDs, the IRS should provide taxpayers with relief for the years prior to the regulations becoming final (*i.e.*, 2021 and 2022).

IRS Guidance and Relief

Perhaps recognizing the inherent unfairness in applying the proposed regulations to 2022, the IRS issued [Notice 2022-53](#) on October 7, 2022. According to the Notice, the proposed regulations will apply to tax years no earlier than 2023. The Notice also states that if a 2021 or 2022 inherited IRA RMD is not taken by a designated beneficiary, this is not deemed to be a failure to take an RMD and no penalty will be assessed. If a designated beneficiary already paid a penalty for failure to take a 2021 inherited IRA RMD, that designated beneficiary can request a refund of the penalty.

The Notice did not say two important things. First, it did not comment on whether the IRS will withdraw the proposal to require annual RMDs in years 1-9. That determination will come at a future date. Second, it did not provide transitional relief for taxpayers who already took a 2022 RMD based on the proposed regulations. Inherited IRAs do not have a statutory 60-day rollover option – if you take the money out of the inherited IRA, you are taxed.

Practical Impact of the Notice

If you are the designated beneficiary of an inherited IRA in which the IRA owner died on or after January 1, 2020, and after the owner's RBD, and have:

- Not yet taken a 2022 RMD, no 2022 inherited IRA RMD is necessary.
- Already taken a 2022 RMD, that distribution cannot be placed back into the inherited IRA.

This publication is not intended as legal or tax advice. This information is intended solely for the information and education of Northwestern Mutual financial representatives, their customers, and the legal and tax advisors with whom they work. It must not be used as a basis for legal or tax advice, and is not intended to be used and cannot be used to avoid any penalties that may be imposed on a taxpayer. Northwestern Mutual and its Financial Representatives do not give legal or tax advice. Taxpayers should seek advice regarding their particular circumstances from an independent tax advisor. Tax and other planning developments after the original date of publication may affect these discussions.

Northwestern Mutual is the marketing name for The Northwestern Mutual Life Insurance Company (NM), Milwaukee, WI (life and disability insurance, annuities, and life insurance with long term care benefits) and its subsidiaries.

Advanced Planning, October 2022