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Trusts, Estates & Personal Planning Client Alert |

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IRS Issues Final SECURE Act Regulations on Required Minimum Distributions

For those who inherited an individual retirement account (IRA) or qualified retirement plan account such as a 401(k), newly released Internal Revenue Service (IRS) regulations relating to the SECURE Act may impact the timing and amounts of account distributions. The SECURE Act, passed in 2019 and amended in 2022, overhauled the rules relating to the distribution of inherited retirement plans. Most notably, the SECURE Act mandated the full withdrawal of certain accounts within 10 years of the accountholder's death for most non-spouse beneficiaries. Under the new regulations, non-spouse beneficiaries may need to take annual required minimum distributions (RMDs) during the 10-year period.

Prior to the SECURE Act, a non-spouse beneficiary of a retirement account could often stretch the distribution of account funds over the beneficiary's lifetime according to IRS-issued life expectancy factors. The SECURE Act changed this longstanding rule by obligating "designated beneficiaries" to fully withdraw the account balance within 10 years of the accountholder's death. A "designated beneficiary" is any individual who is not an "eligible designated beneficiary." Eligible designated beneficiaries include a surviving spouse, a minor child of the decedent, a chronically ill or disabled person, or a person not more than 10 years younger than the deceased accountholder.

Due to an ambiguity in the law, tax and finance professionals tended to believe that a designated beneficiary subject to the 10-year rule did not need to take RMDs over the course of the withdrawal period and was only obligated to withdraw the entire account by the 10th year. However, in 2022, the IRS issued proposed regulations requiring RMDs to be taken each year during the 10-year withdrawal period, as long as the accountholder died on or after his or her required beginning date (RBD). The RBD is the date on which a retirement account plan participant must start taking RMDs and is usually April 1 of the year the accountholder reaches an age between 70-and-a-half and 73, depending on the accountholder's year of birth.

The final regulations provide that if (1) the designated beneficiary inherited a non-Roth IRA or qualified retirement plan, (2) the designated beneficiary is not an "eligible designated beneficiary," and (3) the accountholder died on or after his or her RBD, the designated beneficiary must take RMDs each year over the 10-year withdrawal period, and the designated beneficiary cannot wait until the final year to withdraw the full amount.

On the other hand, if the accountholder died before his or her RBD (or if the accountholder's entire plan balance was in a designated Roth account), the designated beneficiary does not need to take

RMDs and may wait until the 10th year to withdraw the funds. For taxpayers impacted by these final regulations, the IRS has issued official notices assuring taxpayers that there will be no penalty assessed and no requirement to make up missed RMDs for 2021 to 2024.

Below are some examples to illustrate:

- John inherited a traditional IRA from his father, who died in 2022, after his RBD. John must have the entire account balance withdrawn by December 31, 2032, and must take annual RMDs beginning in 2025. John does not need to make up RMDs for 2023 or 2024 and will face no penalty for not taking them.

- Same facts as above, but John's father died prior to his RBD. John must withdraw the entire account balance by December 31, 2032, but is not required to take any RMDs during the 10-year period following his father's death.

- Same facts as above, but John is a chronically ill or disabled individual. John is not subject to the 10-year rule and may stretch the account balance for the remainder of John's life, taking RMDs every year according to the IRS life expectancy factors.

The final regulations will impact the withdrawal strategy for inherited retirement accounts, and each beneficiary will need to consider his or her goals, tax bracket and investment strategy in light of the new rules. Individuals should consult with their advisers to develop a plan to address the withdrawals from inherited retirement accounts.

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