

New RMD Rules

On July 18, 2024, the IRS issued both final regulations under the 2020 SECURE Act and proposed regulations under the SECURE 2.0 Act of 2022. These long-awaited new regulations impact many parts of the required minimum distribution (RMD) rules for retirement accounts. The final regulations are effective for 2026, and the proposed regulations can be used immediately as guidance. Here are the highlights:

RMDs in the 10-Year Period/The "At Least As Rapidly Rule": RETAINED

The IRS opted to retain this controversial rule. If the account holder died on or after his required beginning date (RBD) for starting RMDs, then annual RMD payments must continue to the beneficiary during the 10-year period.

Due to all the confusion this interpretation caused, the IRS previously waived RMDs during the 10-year period for beneficiaries for the years 2021, 2022, 2023, and 2024. Annual RMDs are now required starting in 2026. The penalty waivers do not extend the 10-year period, and any missed RMDs do not need to be made up.

Planning Note: Many beneficiaries subject to the 10-year rule will voluntarily take out more than the yearly RMD over the 10-year period. For those people, the annual RMD rule is irrelevant. Those who aren't already taking out more than the annual RMD should consider doing so. If they don't, they may be stuck with a large tax bill in the 10th year when the account must be emptied. **The best IRA tax planning may be to ignore RMDs and think "maximum" - NOT "minimum."**

Eligible Designated Beneficiaries (EDBs): EXPANDED

The new regulations change the definition of "EDB":

- The definition of a minor child of an IRA owner or plan participant is expanded to include a stepchild, adopted child or eligible foster child.

- Beneficiaries who have been found to be disabled for Social Security purposes are considered EDBs under a new safe harbor rule. The regulations also include a special definition of "disability" for children under 18.
- Documentation of chronic illness or disability is not required for IRA beneficiaries. Documentation for plan beneficiaries is still required, but it does not need to be overly detailed. For plan beneficiaries, documentation for 2020-2023 deaths is not required until 10/31/25.

Planning Note: These changes will make it easier for more beneficiaries to qualify as EDBs.

Year-of-Death RMD: DEADLINE EXTENDED

The final regulations confirm that when an IRA or plan account has multiple beneficiaries, any beneficiary can take the year-of-death RMD that the account owner did not take before death. Also, the deadline for taking a year-of-death RMD is extended until the end of the calendar year following the year of death.

Planning Note: This is good news for beneficiaries when one beneficiary, such as a charity, takes a lump sum distribution from the inherited account immediately after the death of the owner. That could satisfy the year-of-death RMD for all beneficiaries. Extra time to take an RMD may be helpful for beneficiaries of retirement owners who died late in the year without taking the full RMD or for beneficiaries who are overwhelmed after the death of a loved one.

Monitoring Concurrent RMDs: ELIMINATED

In earlier regulations proposed by the IRS, under certain circumstances an EDB who was older than the account owner was allowed to use the longer life expectancy of the deceased account holder

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to calculate RMDs. However, the EDB would have to simultaneously monitor her own shorter life expectancy and empty the inherited account when that life expectancy ran out. This is eliminated in the final regulations.

Planning Note: This complex and confusing requirement that unduly burdened elderly beneficiaries is no longer a concern.

Hypothetical RMD Rule for Spouse Beneficiaries: RETAINED

The final regulations retain the rule that prevents surviving spouse beneficiaries from avoiding RMDs in certain circumstances when a retirement account owner dies before his RBD. RMDs could be avoided by electing the 10-year payment rule and then later doing a spousal rollover. The new regulations close this loophole and require that any "hypothetical RMDs" that would have had to be taken (if not for the election of the 10-year rule) must be taken prior to a spousal rollover.

Planning Note: The continued existence of this rule shows the IRS means business when it comes to annual RMDs. This loophole remains firmly closed.

Trusts as Beneficiary: RULES LOOSENERD

A trustee is no longer required to provide documentation to the IRA custodian to satisfy the see-through rules necessary for the trust to use either the 10-year rule or even a stretch payout for an EDB trust beneficiary.

For trust beneficiaries of plans, documentation must still be provided by October 31 of the year following the year of death. However, the plan administrator can require the trustee to provide either the trust document or a list of trust beneficiaries with their entitlements.

RMD rules can now be applied separately to see-through trust beneficiaries if the trust will be terminated and divided into separate subtrusts immediately upon the death of the account owner. This new rule expands the prior separate account rule that had applied only to certain special needs trusts. Each subtrust can now get the most favorable payout option without being separately

named on the beneficiary form, as was required in the past.

Planning Note: Trusts are downgraded as a planning strategy after the SECURE Act, and the new regulations do not change that. However, the new final regulations do clear up some confusion and add some rules favorable to trust beneficiaries.

New Rules for Spouse Beneficiaries: CLARIFIED

Section 327 of SECURE 2.0 allows a surviving spouse to be treated as the deceased employee for purposes of the RMD rules. A spouse beneficiary may delay RMDs until the deceased spouse would have reached RMD age. This election is considered *automatically* made by the beneficiary when the account owner dies before the RBD.

The proposed regulations clarify that RMDs are then calculated using the Uniform Lifetime Table and the surviving spouse's age. The account is considered an inherited account, so any distributions would not be subject to the 10% penalty for early distributions. A spousal rollover can still be done at any time.

Planning Note: This is welcome guidance on a perplexing provision of SECURE 2.0. Some spouse beneficiaries will still be able to delay RMDs, sometimes for years, as under the old rules. And their RMDs will be smaller because they can now use the Uniform Lifetime Table, which was never before allowed for any beneficiaries.

First RMD Year for Those Born in 1959: CLARIFIED

Due to a drafting error in SECURE 2.0, the RMD age for someone born in 1959 was unclear. The proposed regulations clarify that the first RMD year for someone born in 1959 is age 73.

Planning Note: The ages when RMDs must begin for retirement account owners are as follows:

Age 72 (or 70 ½)	Born 1950 or earlier
Age 73	Born 1951 – 1959
Age 75	Born 1960 or later

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