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- Named “The Best Source for IRA Advice” by *The Wall Street Journal*
- The go-to resource for media on breaking news affecting retirement tax planning
- One of the top pledge drivers of all time with his popular public television specials
 - Creator of Ed Slott's Elite IRA Advisor GroupSM
 - Most recently published *The New Retirement Savings Time Bomb* (2021)



MEDIA HIGHLIGHTS





America's IRA Experts

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The NEW RMD Rules

After the 2022 IRS SECURE Act Regulations

New IRA Estate Planning Issues That Must Be Addressed

Hosted by:



Prudential

[Date]

SECURE ACT

Setting Every Community Up for Retirement Enhancement Act of 2019

Urgent for all financial advisors: *Planning for the End of the Stretch IRA*

► **Critical Issues Must be Addressed for Large IRAs!**

The SECURE Act is the law, and the stretch IRA has been eliminated.

PLUS - *New IRS Proposed Regs. issued on February 23, 2022*

Clients need solutions.

Every IRA and company plan will be affected.



SECURE ACT

Setting Every Community Up for Retirement Enhancement Act of 2019

Key points:

- ▶ **Stretch IRA eliminated**
 - Replaced with a 10-year payout for all beneficiaries, except for certain “**Eligible Designated Beneficiaries**” (effective for 2020 and later years)
- ▶ **How the new post-death IRA rules work – *IRS updated these rules on 2-23-22***
- ▶ **Which IRAs are most affected?**
- ▶ **IRA trust problems – *they don't work anymore* – find out why and what to do now!**

SECURE ACT

Setting Every Community Up for Retirement Enhancement Act of 2019

Key points:

Under the SECURE Act, there are now 3 kinds of retirement plan beneficiaries for determining post-death payouts after 2019:

1. Non-Designated Beneficiary (NDB)
2. Non-Eligible Designated Beneficiary (NEDB)
3. Eligible Designated Beneficiary (EDB)

SECURE ACT

Setting Every Community Up for Retirement Enhancement Act of 2019

▶ **Old law:**

Stretch IRA for all designated beneficiaries – *individuals named on the IRA or plan beneficiary forms, and qualifying trusts*

◎ **New law:**

Stretch IRA is eliminated – *replaced with a 10-year payout for most non-spouse beneficiaries, **except for “Eligible Designated Beneficiaries”***

“

Don't be fooled by the name Congress gave to their recent raid of your retirement savings.

They call the law the ‘SECURE Act,’ but it does the exact opposite when it comes to the retirement funds you leave to your children and grandchildren.

– Ed Slott, CPA, America's IRA Expert
Author of *The New Retirement Savings Time Bomb*

”

SECURE ACT: Eligible Designated Beneficiaries

Which beneficiaries can still stretch their inherited IRAs?

Eligible designated beneficiaries (EDBs) — 5 classes:

- 1. Surviving spouse**
- 2. Minor children**, up to the age of majority (**age 21- regardless of state law** - Per IRS Regs. released on 2-23-22) — but *not* grandchildren
- 3. Disabled individuals** — *under the strict IRS rules*
- 4. Chronically ill individuals**
- 5. Individuals not more than 10 years *younger*** than the IRA owner

Effective date: For deaths *after 2019*. For deaths *in 2019 or prior years*, the *current rules would remain the same*.

SECURE ACT: How the Post-Death IRA Rules Work



"I realize that this may be carping, but I never did live long enough to enjoy my I.R.A. account."

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10-Year Rule

New Proposed Regs issued by IRS on February 23, 2022!

Require RMDs for years 1-9, if death is on or after the required beginning date.

The balance would have to be withdrawn by the end of the 10 years after death.

SECURE ACT: How the New Post-Death IRA Rules Work

Non-Designated Beneficiary (NDB) Payout Rules Still Apply – The same as before the SECURE Act:

Non-Designated Beneficiary (NDB)

These are not people.

Examples: Estate, charity or non-qualifying trust (non-look-through trust)

Post-death Payout Rules for NDBs

Post death RMDs are based on whether the IRA owner or plan participant dies before or after the owner's required beginning date (RBD). The RBD is generally April 1 after the year of the 72nd birthday.

- If owner dies **before the RBD**, the account must be withdrawn by the end of the 5th year after death – the 5-year rule. There are no annual RMDs during the 5-year window.
- If owner dies **on or after the RBD**, RMDs must be taken over the deceased IRA owner's (or plan participant's) remaining single life expectancy – “ghost life rule.” (Note: This can produce a post-death payout exceeding 10 years)

SECURE ACT: How the New Post-Death IRA Rules Work

The Big Problem! At Least as Rapidly Rule (ALAR)

Per IRS proposed regulations – When death occurs **on or after the RBD** (required beginning date) – **ALAR applies** - According to IRS, **once RMDs begin, they cannot be turned off.** They must continue.

While it does not require the same amount that was taken by the IRA owner to also be taken by the beneficiary, it does require that the process of taking RMDs continue.

Per 2022 IRS Proposed Regs:

Beneficiaries subject to the 10-year rule, who inherit from someone who dies **on or after the RBD**, **must take annual RMDs for years 1-9, AND the 10-year rule also applies.**



SECURE ACT: How the New Post-Death IRA Rules Work

At Least as Rapidly Rule (ALAR)

Per IRS proposed regulations – When death occurs **On or After the RBD** (required beginning date) – **ALAR applies** - According to IRS, once RMDs begin, *they cannot be turned off*. They must continue.

Translation: **Both** rules apply when death is on or after the RBD

1. The “at least as rapidly” rule which requires RMDs each year after death
2. The 10-year rule – where all funds in the inherited IRA must be withdrawn by the end of the 10th year after death



SECURE ACT: How the New Post-Death IRA Rules Work

IRS Proposed Regs Issued 2-23-22

**RBD (required beginning date) is an RBD
(Really **BIG** Deal!)**

Example:

IRA owner dies at age 75 (after the RBD), and his beneficiary is his son, age 50. The son is a designated beneficiary and is subject to the 10-year rule, but must also take “stretch IRA” RMDs for years 1-9, since death was after the RBD.



© Rainer Fuhrmann / Shutterstock.com

RMDs will be required for years 1-9, and the balance must be withdrawn by the end of the 10-year term!

SECURE ACT: How the New Post-Death IRA Rules Work

IRS Proposed Regs Issued 2-23-22

Roth IRA Advantage

Same facts - Roth IRA Example:

Roth IRA owner dies at age 75, and his beneficiary is his son, age 50. The son is a designated beneficiary and is subject to the 10-year rule. **No distributions are required until the end of the 10-year term**, since death was before the RBD, regardless of the age of the deceased Roth IRA owner.

Caution! 5-year rule if no designated Roth beneficiary

All Roth IRA owners are deemed to have died before their RBD, so Roth designated beneficiaries will not have to take RMDs for years 1-9. They can wait until the end of the 10-year term to withdraw the balance in the inherited Roth account. Big Roth IRA advantage!



Planning Issues: Which IRAs Are Affected?



< \$500,000

Largely unaffected

These **M** IRA balances will likely be consumed during a lifetime.



\$500,000 – \$1MM

Somewhat affected

A good portion of **L** IRA balances might be consumed during a lifetime, and the remaining funds to beneficiaries spread out over 10 years would not have a major tax impact.



\$ Multi-MM IRAs

BIG impact!

A good chunk of these **XXL** IRA balances will be left to beneficiaries and often in trusts.

Urgent! Planning options for these XXL IRAs are critical.

Planning for the End of the Stretch IRA

2 Big Issues for Your Clients

1. Post-death control
2. Taxes – *especially trust taxes*



CartoonStock.com

Avoid the Death Tax Trap: Estate Planning—After the SECURE Act

The new reality of naming trusts as IRA beneficiaries:

**Most people don't need to name trusts
as their IRA beneficiaries.**

- Costly
- Cumbersome
- No tax benefits gained that can't be gained without one

The main reasons to name a trust as the IRA beneficiary are **personal, non-tax reasons** (*when the client wants some level of control to help protect the inherited IRA funds for their heirs*)

IRA Trust Planning—After the SECURE Act

IRA Trust Problems

Most larger IRAs are left to trusts to protect and preserve those large inherited IRA balances for (and from) beneficiaries:

- **Minors, disabled, spendthrifts, creditor or financial problems, lawsuits, divorces,**
- **2nd marriages, or other vulnerable beneficiaries who may be easily preyed upon**

▶ Old Rules – Pre-2020

- **IRA Trust Benefit**
- **Long-term post-death protection and control**
 - When an IRA was left to a trust, and the trust qualified as a “**see-through**” trust, the inherited IRA funds could be stretched over the oldest trust beneficiary’s lifetime, leaving the lion’s share of the inherited IRA funds protected in trust - possibly for decades. **But not for deaths after 2019.**

© **New Rules – 2020 and Beyond:** Most IRA trusts will be subject to the 10-year rule, **and possibly RMDs for years 1-9, per IRS 2022 proposed regulations.**

Two Types of IRA Trusts

1. Conduit trusts:

Pay out only RMDs to trust beneficiaries over their lifetime. Taxes are paid by the individual beneficiaries at their own personal tax rates.

2. Discretionary trusts:

Trustee has the power (discretion) to pay out funds to the trust beneficiaries or hold and protect the funds (accumulate the funds) in the trust.

2022 Trust Tax Rates

10%	\$0 – \$2,750
24%	\$2,751 – \$9,850
35%	\$9,851 – \$13,450
37%	Over \$13,450



Funds held in the trust would be taxed at high trust tax rates

IRA Trust Problems: Conduit Trusts

Conduit Trusts

Conduit trusts **no longer work** and essentially cease to exist.

► ***Why? All funds must be withdrawn from the inherited IRA by the end of the 10th year after death, but RMDs could be required for years 1-9 if death occurs after the required beginning date (RBD).***

After the 10 years:

- ***100% RMD at that point.***
- All inherited IRA funds would be released to the beneficiaries, nullifying any further trust protection – ***exactly the opposite of what the client wanted!***

IRA Trust Problems: Conduit Trusts

Conduit trusts would have to be changed to **discretionary trusts** to allow distributions within the 10 years to smooth out the tax bill

- With **discretionary trusts**, inherited IRA funds can be retained within the trust for long-term protection.
 - ▶ But that trust protection may come at a prohibitive tax cost – ***at trust income tax rates***

IRA Trust Problems: Discretionary Trusts

Discretionary Trusts (Accumulation Trusts)

These will still work, but at a potentially **heavy tax cost**.

Years 0→10 Trustee can spread payouts to the trust (or trust beneficiaries) over the 10 years

Year 10→ After 10 years, **someone will pay the tax on the entire IRA balance:**

- Either the **trust**, at high trust tax rates (if the funds are held to be protected); *or*
- By the **individual beneficiaries** at their own rates – *but then the funds are no longer protected in the trust*

► Using a discretionary (accumulation) trust is a better plan as far as trust protection, but still at a heavy tax cost. **Roth IRAs will work better here**; no trust tax when the funds go to the trust or to the trust beneficiaries.

SECURE ACT: How the New Post-Death IRA Rules Work

Post-death Payout Rules for EDBs
These beneficiaries still get the stretch IRA.

But once they no longer qualify as EDBs, or die, the 10-year rule is applied for them, or for their beneficiaries.

Stretch IRA



10-Year Rule

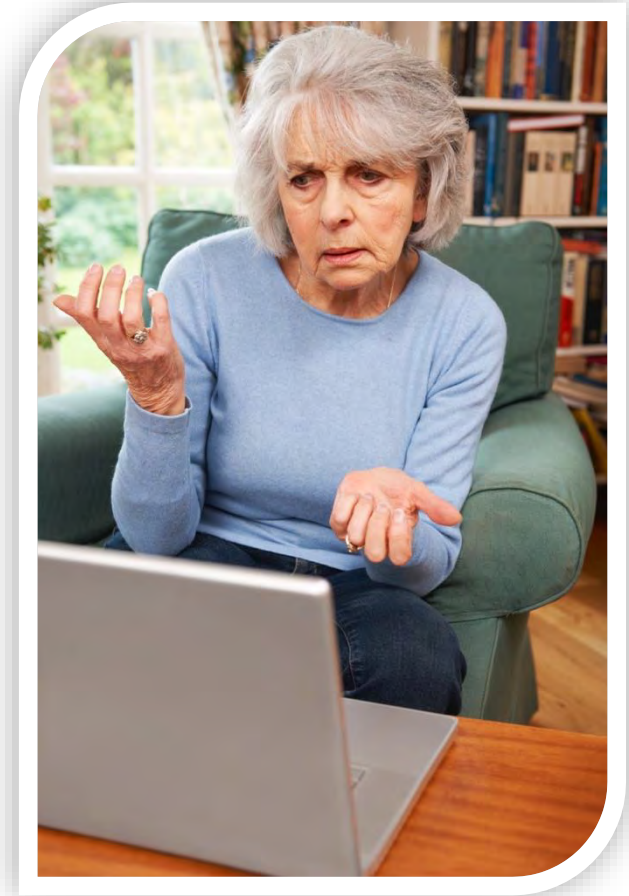
SECURE ACT: How the New Post-Death IRA Rules Work

Post-death Payout Rules for EDBs

Older Beneficiaries Can Use the Longest Life

If the IRA owner dies *on or after* his required beginning date (RBD) (i.e., April 1 after their age 72 year) and the designated beneficiary is **older** than him, the beneficiary can use the deceased **IRA OWNER'S remaining** single life expectancy rather than the beneficiary's life expectancy. This will give the beneficiary a longer life expectancy than he would have had if he had to use his own life expectancy.

Caution: CRAZY IRS RMD rule in the Regs. – *older beneficiaries (who are EDBs) must monitor two sets of RMD life expectancies here, since the inherited account will have to be emptied when the beneficiary's RMD life expectancy ends, even though the beneficiary is permitted to take RMDs based on the longer deceased IRA owner's lifetime!*



SECURE ACT: How the New Post-Death IRA Rules Work

Example:

Non-EDB inherits a *Roth IRA* in 2021

In 2021, Tom, age 32, inherits a **Roth IRA** from his father. He is a **designated beneficiary**, *but he is not an eligible designated beneficiary*. This means he is subject to the 10-year rule. Tom can take as much or as little out of his Roth IRA each year during the 10-year period, but he must withdraw the entire Roth IRA by December 31, 2031 or he will be subject to the 50% penalty on the amount not taken.

Because this is a Roth IRA, the deceased Roth IRA owner is deemed to have died before his RBD – so no RMDs need to be taken for years 1-9.



SECURE ACT: How the New Post-Death IRA Rules Work

Example:

Non-EDB inherits a Traditional IRA in 2021

In 2021, Tom, age 32, inherits a **traditional IRA** from his father, age 65 (before the RBD). He is a **designated beneficiary**, *but he is not an eligible designated beneficiary*. This means he is subject to the 10-year rule. Tom can take as much or as little out of his inherited traditional IRA each year during the 10-year period, but he must withdraw the entire IRA by December 31, 2031 or he will be subject to the 50% penalty on the amount not taken.

Because death occurred **before the RBD**, **no RMDs need to be taken for years 1-9.**

If death was on or after the RBD - RMDs for years 1-9



SECURE ACT: How the New Post-Death IRA Rules Work

Timing:

- Determination of an Eligible Designated Beneficiary (EDB) is **Date of Death**
- EDB status is determined at date of owner's (or plan participant's) death ***and cannot be changed.***

“

From the Act:

Time for Determination of Eligible Designated Beneficiary - The determination of whether a designated beneficiary is an eligible designated beneficiary shall be made as of the date of death of the employee.

”

SECURE ACT: How the New Post-Death IRA Rules Work

Example:

Non-EDB inherits in 2021, but becomes disabled in a later year

John dies on August 1, 2021. He named his son Jerry, age 30, as his primary beneficiary. Jerry is bound by the SECURE Act which dictates he must use the 10-year payout for the inherited IRA. Jerry gets into a car accident 6 months later and before his father's IRA was titled in his name as an inherited IRA. Jerry is fully disabled under the tax code rules. Jerry **still cannot stretch the inherited IRA** over his life expectancy. He cannot qualify as an EDB because he was not disabled as of the **date of his father's death**.



In addition, if the IRA owner died on or after his RBD, Jerry would also have to take RMDs for years 1-9 – per IRS Regs.



SECURE ACT: How the New Post-Death IRA Rules Work

Temporary Stretch for Minor Children

A minor child of the deceased IRA owner (but **not a grandchild**) qualifies under the SECURE Act as an eligible designated beneficiary (EDB) and can stretch IRA payments until reaching majority.

- The age of majority is 21 for all (regardless of state law – per IRS Regs.)
- At that point (age 21), the 10-year term payout will kick in, *but under the ALAR rule, RMDs may be required in years 1-9 of the 10-year term, regardless of whether the IRA owner died before or after the RBD!*



SECURE ACT: How the New Post-Death IRA Rules Work

Example:

EDB inherits in 2021

In 2021, Lisa, age 10, inherits an IRA from her mother. Lisa is an eligible designated beneficiary (EDB) and can stretch distributions over her single life expectancy. This goes on for 11 years. Lisa's 21st birthday is in 2032. Because Lisa has reached the age of majority, the 10-year rule will then apply. This means that Lisa must empty the inherited IRA by December 31, 2042 - by the end of the 10th year after she reached age 21.



ALAR Effect: Lisa may have to continue stretch IRAs for years 1-9 of the 10-year term, regardless of whether her mother died before or after her RBD.



SECURE ACT: How the New Post-Death IRA Rules Work

Example:

**2 children inherit in 2021—
one is a minor (an EDB), and one is not**

Kristy dies in 2021 at age 50 (**before her RBD**) and leaves her IRA to her two daughters.

Alexa, age 23: Since Alexa is of majority age (age 21 or older), she is bound by the 10-year payout. She will have no annual RMDs, but her inherited IRA will need to be emptied **by the end of the 10th year** after her mother's death.

However, if Alexa's mom died on or after her RBD, then Alexa would have to take RMDs for years 1-9 of the 10-year term, and then the full remaining balance would have to be withdrawn by the end of the 10th year after death.

In this case, both the **ALAR rule (RMDs for years 1-9)** and the 10-year rule would apply.



SECURE ACT: How the New Post-Death IRA Rules Work

Example:

2 children inherit in 2021— *one is a minor (an EDB), and one is not*

Kristy dies in 2021 at age 50 (**before her RBD**) and leaves her IRA to her two daughters.

Zoey, age 16: Zoey is a minor. She can stretch the inherited IRA based on her single life expectancy (68.0 for a 17-year-old—her age in the year after death and reducing that factor by one year for each year of the stretch).

Zoey takes annual RMDs for 5 years, until the year after she reaches age 21. Zoey then transitions to **the 10-year rule** since she is no longer an EDB. However, annual RMDs may need to continue for years 1-9 (**due to the ALAR Rule**) and then Zoey must empty the remaining account balance by the end of the 10th year after her 21st birthday.



SECURE ACT: How the New Post-Death IRA Rules Work

Payout for Eligible Designated Beneficiary – Chronically Ill

Those who are chronically ill as defined under the tax code on the date of the IRA owner's death qualify as an eligible designated beneficiary and are permitted to stretch inherited RMD payments over their life expectancy.

Proof required:

In addition, under the IRS proposed regulations, documentation of the chronic illness must be provided to the IRA custodian by October 31st of the year after death.



SECURE ACT: How the New Post-Death IRA Rules Work

Example:

Chronically ill beneficiary inherits in 2021

Grandma Gertrude dies on July 4, 2021. She named her grandson Gary, age 30, as her primary beneficiary. On that date, Gary qualifies as “chronically ill” under the tax code definition. *He also provides documentation of his chronic illness to the IRA custodian by October 31, 2022.* Since Grandma Gertrude died in 2021, the SECURE Act rules apply. Because Gary is an EDB due to his medical condition, he can stretch the RMD payments. Gary uses the Single Life Expectancy Table for inherited IRAs to determine his RMD factor (54.4 for a 31-year-old - his age in the year after Grandma Gertrude’s death and reducing that factor by one year for each year of the stretch). Gary is required to take an annual RMD until the account is depleted.



SECURE ACT: How the New Post-Death IRA Rules Work

Example:

Grandchild inherits in 2019

Grandpa Thomas dies in December of 2019. He named his granddaughter Susan as his primary beneficiary. Susan is not an eligible designated beneficiary under the SECURE Act, but nonetheless she “gets in the club” and can use the stretch rules. As such, Susan, age 35 in the year after death, establishes an inherited IRA and can stretch the RMD payments over her life expectancy.



SECURE ACT: Successor Beneficiary Payout Rules

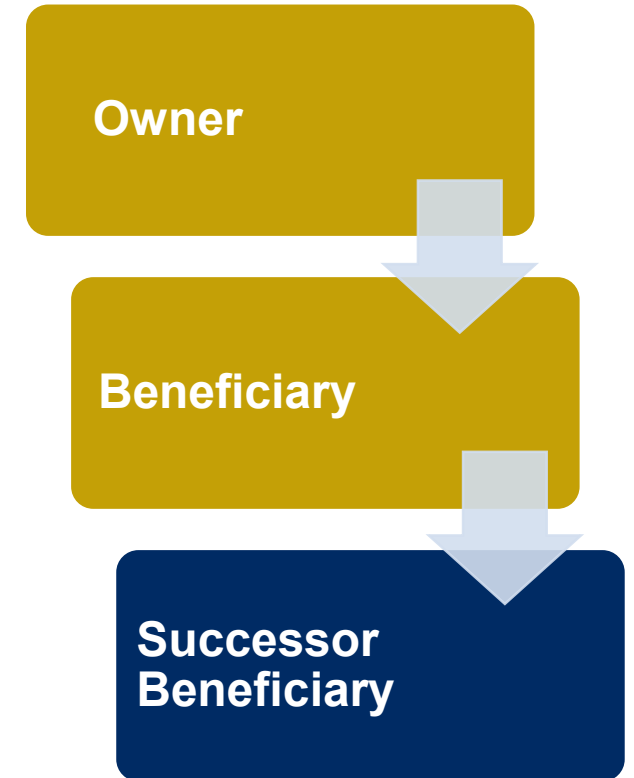
The **successor beneficiary** is the original beneficiary's beneficiary

10-Year Payout Rule for Successor Beneficiaries

Successor beneficiaries of owners who **die before January 1, 2020** do not get to “step into the shoes” of the first beneficiary and continue the stretch RMD payment if the first beneficiary died after 2019. They are instead automatically bound by the 10-year payout term.

However, **if the first beneficiary also died before 2020**, the successor does get to continue the stretch over the first beneficiary's remaining life expectancy, the same as under the old RMD rules.

Successor beneficiaries of owners who die after 2019 are also subject to the 10-year payout rule – even if the first beneficiary was considered an eligible designated beneficiary and could use the stretch. *Plus, RMDs for years 1-9 may have to be taken – Per IRS Regs. – ALAR rule.*



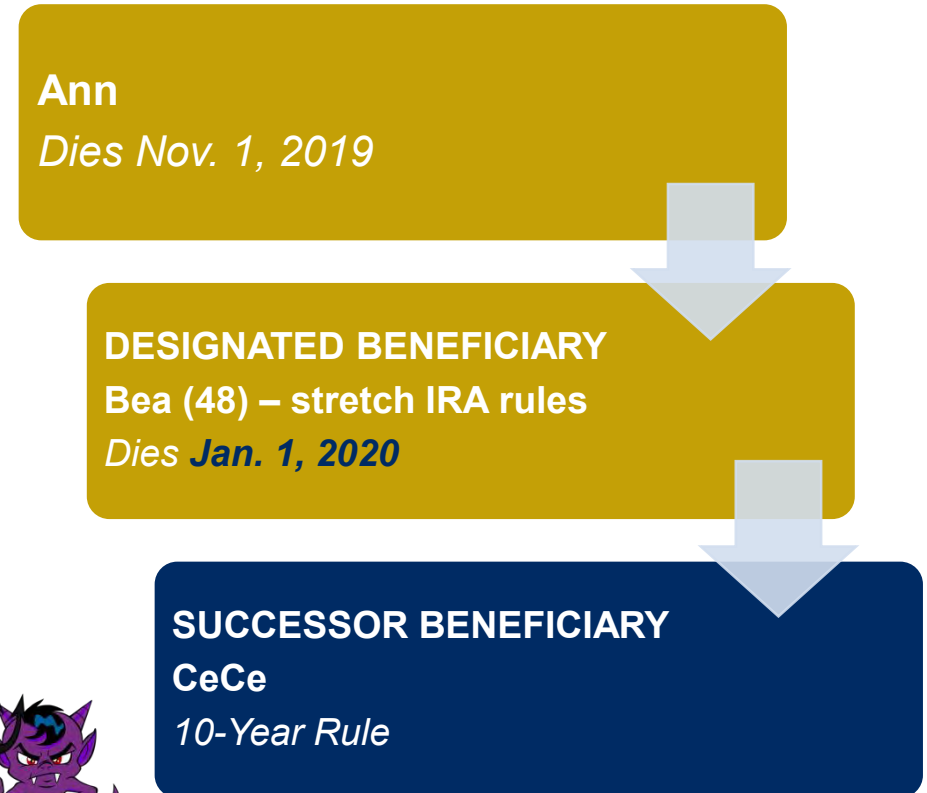
SECURE ACT: Successor Beneficiary Payout Rules

Example:

**IRA owner dies in 2019,
and beneficiary dies in 2020**
**Successor beneficiary is subject to
the 10-year rule.**

Ann dies on November 1, 2019. She named her daughter Bea, age 48 on Ann's death, as her primary beneficiary. Even though Bea is not an eligible designated beneficiary under the SECURE Act, she gets to take advantage of the stretch rules. Bea dies on January 1, 2020 with her grandchild CeCe as beneficiary. CeCe must receive the remaining IRA by the end of the 10th year following Bea's death (December 31, 2030).

(RMDs could also apply for years 1-9 if death was on or after the RBD – ALAR rule.)



SECURE ACT: Successor Beneficiary Payout Rules

Follow-Up Example:

**IRA owner dies in 2019,
and beneficiary dies in 2019**
Successor beneficiary is subject
to the stretch rules

Same as previous example, except Bea dies on
December 31, **2019**.

In that case, the old pre-SECURE Act rules still
apply, and CeCe can continue taking RMDs based
on Bea's remaining life expectancy.

Ann
Dies Nov. 1, 2019

DESIGNATED BENEFICIARY
Bea (48) – *Stretch IRA rules*
Dies December 31, 2019

SUCCESSOR BENEFICIARY
CeCe
Stretch IRA rules

SECURE ACT: Successor Beneficiary Payout Rules

Example:

**Chronically ill beneficiary inherits in 2021,
and then dies in 2028**

**Successor beneficiary is subject to the
10-year rule**

Grandma Gertrude dies on July 4, 2021. She named her grandson Gary, age 30, as her primary beneficiary. On that date, Gary qualifies as “chronically ill” under the tax code definition, so he can begin taking stretch RMDs. Gary dies in 2028 with his minor child Jay as primary beneficiary. Jay must receive the remaining IRA portion **by the end of the 10th** year following his father’s death.

(RMDs could also apply for years 1-9 under IRS’s interpretation of the ALAR rule.)



Gertrude

Dies July 4, 2021

**ELIGIBLE DESIGNATED
BENEFICIARY**

**Gary (30) – Chronically Ill
– Stretch IRA rules**

Dies 2028

SUCCESSOR BENEFICIARY

Jay (minor)

*10-Year Rule – Plus ALAR rule
Cash out by the end of 2038*

SECURE ACT: How the New IRS Lifetime RMDs Rules Work

IRS Regs add Another **CRAZY** RMD Rule for Surviving Spouse

“Hypothetical RMDs” for a Surviving Spouse

As an EDB, a surviving spouse can elect the 10-year rule *if death occurs before the RBD*

IRS closes perceived RMD avoidance “loophole”

In the IRS proposed regulations, IRS says that the surviving spouse cannot avoid RMDs by electing the 10-year rule.

In fact, the IRS goes even further than that. They created yet another new term to know, **“Hypothetical RMDs,”** as a type of deterrent to make sure RMDs are not avoided by a spouse who would have otherwise been required to take those RMDs upon reaching age 72.



SECURE ACT: How the New IRS Lifetime RMDs Rules Work

Example:

“Hypothetical RMDs” for a Surviving Spouse

Spouse inherits from an IRA owner who died before the RBD

- Ken and his wife Linda are both 70 years old.
- Ken dies with Linda as his primary IRA beneficiary.
- As an EDB spouse, Linda can do a spousal rollover or elect to remain a beneficiary. If Linda elects to remain a beneficiary, she can also elect the 10-year payout. Since Ken died prior to reaching his RBD, Linda will have no RMDs during the 10-year window. She will simply have to empty the account by December 31 of the 10th year after the year of Ken’s death.



SECURE ACT: How the New IRS Lifetime RMDs Rules Work

Example: “Hypothetical RMDs” for a Surviving Spouse (continued) Spouse inherits from an IRA owner who died before the RBD

There is no deadline for a spousal rollover, so Linda may believe that she can have her cake and eat it too.

She may think she can use the 10-year rule (without annual RMDs) and then do a spousal rollover years later *to avoid several years of annual RMDs that she otherwise would have had to take from her own IRA*. That is the “loophole” the IRS is closing with this “hypothetical” retroactive spousal RMD provision.

In a later year (but before the end of year 9) when Linda decides to do the spousal rollover, **she cannot roll over the full amount**. Before completing the spousal rollover, Linda must calculate hypothetical RMDs for each year she was age 72 and older. These hypothetical RMDs are not eligible for rollover. (The years when Linda was 70 and 71 are not considered because they were before her first RMD year.)

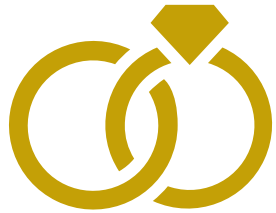
!@#%\$
What??



SECURE Act - Trusts for Eligible Designated Beneficiaries

Under the SECURE Act, there are special provisions allowing a trust to be set up to inherit retirement funds for the benefit of a disabled or chronically ill individual.

2022 IRS Regs also allow for trusts for the other three classes of EDBs:



1. Spouses



2. Minor children
of the deceased IRA owner
(not grandchildren)



**3. Those not more than
10 years younger than
the deceased**

Conduit trusts can be set up for these groups, and the stretch IRA would work as before, but only while they still qualify as eligible designated beneficiaries. After that point, the 10-year payout rule would apply.

SECURE ACT: How the New IRS Lifetime RMDs Rules Work

IRS Regs provide Automatic Waivers of Missed 50% RMD Excise Tax

Two Automatic 50% penalty waiver situations:

1. Missed Year-of-Death RMD

When a beneficiary fails to take a year-of-death RMD by the end of the calendar year in which the IRA owner's (or plan participant's) death occurs. In that case, there is an automatic waiver as long as the year-of-death RMD is taken by the beneficiary's tax filing deadline, including extensions. This waiver will be very helpful when an owner or participant dies near the end of the year before taking the RMD for that year.



SECURE ACT: How the New IRS Lifetime RMDs Rules Work

IRS Regs provide Automatic Waivers of Missed 50% RMD Excise Tax

Two Automatic 50% penalty waiver situations:

2. Missed stretch IRA RMD by an EDB, when the IRA owner dies before the RBD – 10-year rule can be elected (but stretch IRA is then lost)

The second automatic waiver can be used by an eligible designated beneficiary (EDB) of an IRA owner (or plan participant) who *dies before his RMD* required beginning date. The automatic waiver applies if the EDB is subject to the stretch by default. If the EDB misses one or more annual RMDs, the 50% excise tax for any missed RMD is automatically waived as long as the EDB elects the 10-year rule *by the end of the ninth year* of the 10-year period.

Once the EDB chooses the 10-year rule, she must empty the account by the 10th calendar year following the year of death of the IRA owner or plan participant.



SECURE ACT: Having Designated Beneficiaries *Still Matters!*

- At a minimum, having a designated beneficiary can **lock in the 10-year rule**
- Having a designated beneficiary can **allow the stretch IRA for those who still qualify (EDBs)**

Even though most designated beneficiaries will still be subject to the 10-year payout rule after death, there are **still benefits** to having a designated beneficiary by naming that individual or qualifying trust as the beneficiary on the beneficiary form.



SECURE ACT: Having Designated Beneficiaries *Still Matters!*

Reasons to Still Have A Designated Beneficiary *(and not have the IRA or plan pass through a will)*

- ✓ To make sure that eligible designated beneficiaries get the stretch, since **EDBs must also be designated beneficiaries**
- ✓ To **avoid the 5- year rule** where death is before RBD
- ✓ To **still qualify as a see-through trust** for beneficiaries



SECURE ACT: Having Designated Beneficiaries *Still Matters!*

Reasons to Still Have A Designated Beneficiary (*and not have the IRA or plan pass through a will*)

- ✓ To avoid probate, longer estate administration, legal fees, contests
- ✓ Naming direct beneficiaries ***can avoid potential disinheritance where an unintended beneficiary inherits through the estate*** (through the Will). Directly named beneficiaries will be the ones who receive the funds.



Planning Summary: Action Steps for Advisors

✓ Evaluate these solutions:

- Lifetime planning options, QCDs, other IRA distributions to use up lower tax brackets and offset IRA income
- Identify clients who currently have named a trust as their IRA beneficiary
 - Will IRA trusts still be a viable beneficiary option? **Probably not.**
 - Changes will be necessary
- Roth conversions
- Life Insurance replacement plan
- Leaving IRAs to charity; CRTs or direct beneficiary

CONTACT CLIENTS NOW!

Tax Bracket Management

Taxable Income Brackets for 2022 *Ordinary* Income Tax Rates

Marginal Tax Rates	Married Filing Jointly	Single
10%	\$0 – \$20,550	\$0 – \$10,275
12%	\$20,551 – \$83,550	\$10,276 – \$41,775
22%	\$83,551 – \$178,150	\$41,776 – \$89,075
24%	\$178,151 – \$340,100	\$89,076 – \$170,050
32%	\$340,101 – \$431,900	\$170,051 – \$215,950
35%	\$431,901 – \$647,850	\$215,951 – \$539,900
37%*	Over \$647,850	Over \$539,900

* The top rate is effectively 40.8% for those subject to the 3.8% Medicare surtax on net investment income

Planning Summary: Action Steps for Advisors

- ✓ **Contact clients to advise them on the tax rule changes eliminating the stretch IRA – *they should hear this from you!***
- ✓ **Review all IRA and Plan beneficiary forms -**
Especially the largest IRAs where substantial sums will be left to beneficiaries
 - Evaluate the post-death tax impact
 - Evaluate post-death protection and control desired
 - Check **contingent beneficiaries** to provide post-death flexibility if situations or tax rules change

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