

# IRS Keeps Contentious Required Minimum Distribution 10-Year Rule

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The IRS has issued final regulations implementing legislative changes for required minimum distributions (RMDs), including a highly contested interpretation of the new 10-year rule.

“While certain changes were made in response to comments received on the proposed regulations issued in 2022, the final regulations generally follow those proposed regulations,” the IRS said in a [July 18 release](#) announcing the final rules (T.D. 10001).

The regs, which finalize proposed regs ([REG-105954-20](#)) released in February 2022, reflect the changes made to the RMD rules enacted in the [Setting Every Community Up for Retirement Enhancement \(SECURE\) Act](#) and the [SECURE 2.0 Act](#), enacted as part of the Consolidated Appropriations Act, 2023.

A notable provision of the final regs is confirmation of the 10-year rule application that requires plan beneficiaries to follow both the 10-year rule and the “at least as rapidly” rule, under which beneficiaries would be required to take RMDs for the first nine years if the RMDs began before the plan participant died.

Since the initial proposal, there have been [repeated calls](#) from policy groups and employee benefits practitioners for the IRS to revise its interpretation of the 10-year rule and remove the simultaneous application. A common complaint was that the interpretation was contrary to the congressional intent of the rule.

The IRS said it reviewed the comments expressing concerns about the 10-year rule but “determined that the final regulations should retain the provision in the proposed regulations requiring such a beneficiary to continue receiving annual payments.”

Deborah Walker of Cherry Bekaert, representing the American Institute of CPAs, said she wasn’t surprised by the final regs. “I think they’ve been signaling for years that they believe annual distributions is the right answer, and others don’t agree with them,” she said, adding that she thinks the statute could be read either way.

The IRS also addressed the concern about congressional intent, explaining that there is “little indication” in the SECURE Act that suggests that Congress intended to allow RMDs to cease for the first nine years of the 10-year period.

Ronald G. Cluett of Caplin & Drysdale told *Tax Notes* that “arguments regarding congressional intent notwithstanding, a more robust articulation of the plain reading analysis would have been helpful, and I expect this provision of the final regulations to continue to generate controversy.”

The final regs also raise the starting age for RMDs; simplify the rules for older beneficiaries; require minor children beneficiaries to continue to take annual payments from ages 21 to 31; update the spousal IRA rollover rule; and provide relief from the multiple beneficiary rule for certain look-through trusts.

Walker said she would have preferred to see more examples included in the regs to “show how it all works. Required minimum distributions are very, very complicated after death, and we should maybe think about trying to make them a lot more simple.”

The IRS updated the effective date of the new rules to apply to RMDs beginning at the start of 2025, addressing concerns over the retroactive effective date in the proposed regs, which would have applied to RMDs beginning in 2022.

“The final regulations give some much-needed closure for various compliance issues regarding these complex rules, and the interplay with the proposed regulations gives us a look into some of the unanswered questions following SECURE 2.0 changes,” said Elizabeth Thomas Dold of Groom Law Group.

## The Regs Keep Coming

The IRS simultaneously issued proposed regs ([REG-103529-23](#)) to address additional questions that weren't covered in the final regs regarding the RMD provisions enacted in SECURE 2.0. Those provisions include outright distributions to trust beneficiaries, spousal elections for spouses who elect to be treated as the deceased employee for distributions, and corrective distributions.

Dold said the proposed regs provide some much-needed guidance. “This guidance, along with the model RMD language in the defined contribution plans ‘List of **Required** Modifications,’ gives plans sponsors and recordkeepers important insight to these rules,” she added.

The proposed regs address conflicting provisions regarding the applicable age of employees born in 1959, determining that the applicable age is 73.

Clarifications to a variety of SECURE 2.0 annuity provisions are implemented by the proposed regs, including divorcing after the purchase of a qualifying longevity annuity contract and purchasing annuity contracts with money in an employee’s individual account.

Cluett said that while some of the proposed rules have a narrow application, others may be of more general interest, such as the **rule** regarding spousal elections. “Therefore, while the final regulations do provide a comprehensive restatement of the RMD rules, some key issues such as this spousal election have yet to be finalized,” he said.

The **IRS** has requested comments on the impact the proposed regs may have on small entities and on situations in which the SECURE 2.0 provision that allows a surviving spouse to elect to be treated as the deceased employee for purposes of the RMD rules would affect the rules’ applications to defined benefit plans.

A public hearing on the proposed regs is scheduled for September 25.

## DOCUMENT ATTRIBUTES

### CODE SECTIONS

[SEC. 401 QUALIFIED PENSION, PROFIT-SHARING, AND STOCK BONUS PLANS](#)

[SEC. 402 TAXABILITY OF BENEFICIARY OF EMPLOYEES' TRUST](#)

[SEC. 403 TAXATION OF EMPLOYEE ANNUITIES](#)

[SEC. 404 DEDUCTION FOR CONTRIBUTIONS OF AN EMPLOYER TO AN EMPLOYEES' TRUST OR ANNUITY PLAN AND COMPENSATION UNDER A DEFERRED-PAYMENT PLAN](#)

[SEC. 408 INDIVIDUAL RETIREMENT ACCOUNTS](#)

[SEC. 457 DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS](#)

[SEC. 4974 EXCISE TAX ON CERTAIN ACCUMULATIONS IN QUALIFIED RETIREMENT PLANS](#)

### JURISDICTIONS

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[BENEFITS AND PENSIONS](#)

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