

REQUIRED MINIMUM DISTRIBUTIONS – THE LATEST AND THE GREATEST (HOW THE CURRENT LAW MAY IMPACT YOUR CLIENTS)

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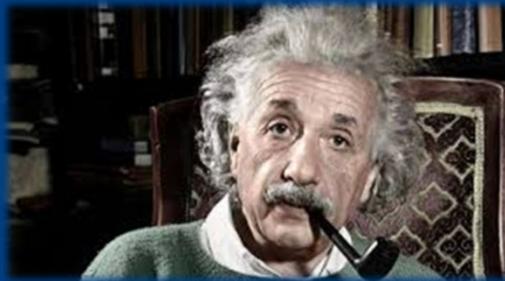
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**Albert Einstein reportedly stated,
"The hardest thing in the world to
understand is the income tax".**



SECURE 2.0 AND THE TREASURY REGULATIONS THEREUNDER
Current RMD Rules – Overview

- The rules re required minimum distributions are found in Code Section 401(a)(9).
- Recently amended by SECURE (2019) and SECURE 2.0 (2022) Acts
- Further clarified by Treasury Department in Final Regs. (2024)

**SECURE 2.0 AND THE TREASURY REGULATIONS THEREUNDER
Current RMD Rules – Overview**

RMD rules apply to:

- individual retirement accounts (IRA) – Sec. 408(a)(6) of the Code
- individual retirement annuities – Sec. 408(b)(3) of the Code
- 403(b) annuity contracts, custodial accounts and retirement accounts – Sec. 403(b)(10)
- 457(d)(2) eligible deferred compensation plans

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**SECURE 2.0 AND THE TREASURY REGULATIONS THEREUNDER
Current RMD Rules – Overview**

RMD rules impact:

- related excise taxes for failure to take RMDs – Sec. 4974
- eligible rollovers – Sec. 402(c)

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**SECURE 2.0 AND THE TREASURY REGULATIONS THEREUNDER
Current RMD Rules – Overview**

In general, RMDs must start (the “RBD”) by April 1 of the following year for

- IRA owners and plan participants who own 5% or more of the employer sponsoring the plan upon reaching
 - Born prior to 1951 – age 72 (applies as of 2020)
 - Born in 1951 and later – age 73 (applies as of 2023)
 - Born in 1958 and later – age 75 (applies as of 2033)

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**SECURE 2.0 AND THE TREASURY REGULATIONS THEREUNDER
Current RMD Rules – Overview**

The RBD for plan participants who are not 5% owners, RMD must start at the later of

- Either turning the stated age
- OR
- Retiring

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SECURE 2.0 AND THE TREASURY REGULATIONS THEREUNDER

Current RMD Rules – Overview

- Penalty for failing to take RMD is 25% on the shortfall (SECURE 2.0)
- Reduced to 10% if the shortfall is taken within a correction period (file Form 5329)
- Waived if file Form 5329 and prove the error was reasonable and that the taxpayer took steps to remedy the shortfall (e.g. provide a letter of explanation to request a waiver)

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Direct and Indirect Impact of the New RMD Rules

Owners

- delay their own RMD
- allows longer tax-deferred growth
- simplifies Roth conversions

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Owners – RBD for RMDs – Examples

Mike turned 73 in 2024. His first RMD from his IRA is due April 1, 2025. His second RMD is due by December 31, 2025. (SECURE 2.0 changed age to 73 effective as of 01/01/2023)

Olivia turned 73 in 2023. Her first RMD from her IRA was due April 1, 2024. Her second RMD was due by December 31, 2024. (SECURE 2.0 changed age to 73 effective as of 01/01/2023)

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Owners – RBD for RMDs – Examples

Jack turned 73 in 2022. His first RMD from his IRA was due by April 1, 2022 BECAUSE SECURE changed the age to 72 effective as of 01/01/2020. Jack turned 72 in 2021.

BE AWARE OF THE YEARS 2020, 2021 AND 2022 – AGE 72 APPLIES UNDER SECURE.

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Owners – Reduced Excise Tax under Sec. 4974 (SECURE 2.0)

- As of 01/01/2023, penalty for failing to take an RMD is reduced to 25% on the shortfall.
- As of 01/01/2023, penalty is further reduced to 10% on the shortfall if
 - the taxpayer receives the corrective amount of the shortfall by the end of the 2nd calendar year after the year the RMD was missed; and
 - files an income tax return to show the distribution and pay income tax plus penalty
 - files Form 5329 (a separate Form 5329 is required for each year the RMD was missed) – to claim a reduced penalty

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Owners – Correction for Missed RMD – 10% Penalty

Mary was required to take an RMD in 2024 in the amount of \$15,000. She received the RMD in the amount of \$5,000. Her missed RMD for 2024 is \$10,000.

Initial penalty (25%) is \$2,500 (25% x \$10,000)

If corrected by December 31, 2026 - penalty is \$1,000 (10% x \$10,000)

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Owners – Roth 401(k) and Roth 403(b) – NO RMDs

As of 1/1/2024, no RMDs from Roth 401(k) and 403(b) plans



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Owners – Expanded Annuity Options W/IN IRAs and Plans (as of 12/30/2022)

- impacts RMD calculations – SECURE 2.0 allows aggregation of annuitized and non-annuitized funds
- increased the max contributions to Qualified Longevity Annuity Contract
 - to \$200,000 (for 2025 the amount is \$210,000) and
 - removed 25% account balance cap
- impacts payout options

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Owners – Enhanced Catch-Ups (Ages 60-63)

Starting 2025, enhanced catch-ups for plan participants (BUT NOT IRA OWNERS) turning ages 60-63 are allowed in the amount of 150% of the standard catch up (**\$11,250 (for 2025)**)

For example, Bob turned 60 on September 1, 2025. Bob can contribute \$7,500 to his 401(k) plan as the standard catch-up and an additional \$3,750 catch-up making the total catch up equal to \$11,250 (150% x \$7,500).

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Owners – Roth Catch-Ups (High Earners)

SECURE 2.0 required Roth catch-ups for high earners as of 01/01/2024. Treasury Department administratively postponed the deadline to 01/01/2026.

High Earners (i.e. with FICA wages in excess of \$145k from the employer sponsoring the plan) can make catch-ups (whether standard or enhanced) only on Roth basis.

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Owners – Roth Catch-Ups (High Earners)

For example. Bob turned 61 on September 1, 2026. Bob earned \$148k from his current employer in 2025. Bob's employer sponsors 401(k) plan and Bob participates in it. Bob can make his standard catch-up and enhanced catch up ONLY as Roth in 2026.

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Owners – Roth Catch-Ups to IRAs

Roth contributions, including Roth catch-ups, to IRAs PHASE OUT with MAGI at \$150k and completely phased out with \$165k (for single) and \$236k MAGI to \$246K MAGI for married filing jointly.



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Owners – Roth Conversions

As of 12/29/2022, employers were permitted to make matching and non-elective contributions on a Roth basis (by allowing the employees to treat such contributions as Roth). On December 20, 2023, the IRS issued Notice 2024-2, providing necessary guidance. (PRIOR to 12/29/2022, match and non-elective contributions could have been made ONLY on pre-tax basis).

Starting in 2024, unused funds in 529 education savings accounts can be rolled over to a Roth IRA for a plan's beneficiary, subject to limitations on the amount (\$35K cap) and 529 Plan duration (15 years min).

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Beneficiaries of Deceased IRA Owners/Plan Participants

General Rule – for most non-spouse beneficiaries who inherit IRAs or retirement plans after 2019, all funds must be withdrawn w/in 10 years of the original owner's death.

For example, Joseph died at the age of 60 on July 1, 2023 and left his IRA to his 40-year-old son (no disabilities or chronic illness). The son must withdraw the IRA funds by December 31, 2033.

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Beneficiaries of Inherited IRAs/Plans – Annual and Final Distributions

Annual Distributions depend on whether the owner died BEFORE RBD or AFTER RBD.

General Rule - If the original owner died before his/her RBD, there are no annual RMDs, just full withdrawal by Year 10 (Treas. Reg. 1.401(a)(9)-3(c)(3)). (See prior example re Joseph)

General Rule - If the original owner died after their RBD, annual RMDs are still required during the 10-year period (Treas. Reg. 1.401(a)(9)-5(d)(1)).

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Beneficiaries of Inherited IRAs/Plans – Annual and Final Distributions

For example, if Joseph died at the age of 80 on July 1, 2025 and left his traditional IRA to his 40-year-old son (no disabilities or chronic illness), then his son must continue to receive RMDs (based on the longer of son's or Joseph's life expectancy) for the next 10 years and withdraw the entire amount by December 31, 2035.

If in 2025 no RMDs were taken (but were required), Joseph's son can take the missed RMD for 2025 (the year of Joseph's death) by April 1, 2026 or December 31, 2026 without paying penalties on a missed RMD. (SECURE 2.0 and Treas. Reg. 54.4974 – 1(g)(3);(h))

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RMDs In 2020, 2021, 2022, 2023 & 2024

- CARES Act waived RMDs for 2020 for regular and inherited retirement accounts.
- The IRS waived RMDs from inherited accounts for 2021-2024 under Notices 2022-53, 2023-54, and 2024-35 because of the confusion under SECURE 2.0.

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Beneficiaries of Inherited IRAs/Plans – Annual and Final Distributions

Participant's Death	Beneficiary	Withdrawal Rules
Before RBD	None	Anytime within 5 years of death
Before RBD	Designated Beneficiary	Anytime within 10 years of death Treas. Reg. 1.401(a)(9)-3(c)(3)
Before RBD	Eligible Beneficiary	Over life expectancy of the beneficiary (except a minor w/int 10 years of reaching 31 years)
After RBD	None	Continue RMDs over participant's remaining life expectancy Treas. Reg. 1.401(a)(9)-5(d)(1)(iii)
After RBD	Designated Beneficiary	Continue RMDs over the longer of the beneficiary's life expectancy or the participant's life expectancy (but no longer than 10 years after death) Treas. Reg. 1.401(a)(9)-5(d)(1)(i), (ii); (e)(1), (2)
After RBD	Eligible Designated Beneficiary	Continue RMDs over the longer of the beneficiary's life expectancy or the participant's life expectancy (except a minor w/int 10 years of reaching 31 years) (1.401(a)(9)-5(d)(1)(i), (ii); (e)(4).

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Eligible Designated Beneficiaries – Selected Points

“Child” – means a son, daughter, stepson or stepdaughter (whether by birth or by legal adoption), or a foster child who is placed with the decedent by an authorized placement agency or judicial decree or other court order (Treas. Reg. 1.401(a)(9)-4(e)(1)(ii), Code Section 152(f)(1)).

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Eligible Designated Beneficiaries – Selected Points

“Disability” – means the term defined in Section 72(m)(7) or if determined by the Commissioner of Social Security as disabled under Section 42 USC 1382c(a)(3). The definition does NOT include any standards of disability under state court guardianship rules or ABLE accounts under Section 529A(e)(1).

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Eligible Designated Beneficiaries – Trust – Possible Stretch

Definition of the “applicable multi-beneficiary trusts” re stretch for disabled and chronically ill

Type I - at least one beneficiary is disabled or chronically ill and the trust terms require immediate division into separate trusts for each beneficiary upon the employee’s death.

Example – Bob’s Revocable Trust provides that upon Bob’s death the trust immediately is divided into separate trusts created for each of Bob’s children.

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Eligible Designated Beneficiaries – Trust – Possible Stretch

Type II - the trust terms provide that no other beneficiary, but a disabled or chronically ill beneficiary is entitled to the employee’s retirement accounts, and such beneficiary is the only one who receives distributions from the employee’s retirement accounts until such beneficiary’s death

Example – Bob creates one pot trust for his children and provides that if retirement accounts are paid to the trust, only his disabled daughter, Mary, is entitled to the distributions from such account and she is the only one who receives them.

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Eligible Designated Beneficiaries – Trust – Possible Stretch

Trusts for a spouse or a person who is not more than 10 years younger

- conduit trust (i.e. requirement that all RMDs received by the trust are immediately distributed to or for benefit of the beneficiary) Example – the trustee must distribute all RMDs received by the trust to my spouse.
- accumulation trust if all accountable beneficiaries are eligible designated beneficiaries. Example, the trust is for my spouse during her lifetime, upon her death the assets are distributed to my older brother, Max.

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Creditors

- the asset protection for retirement accounts inherited outright is substantially diminished for most beneficiaries under the 10-year rule
- even the 10-year rule further chips away the asset protection if the owner died after RBD
- trusts are more than ever important to consider for leaving retirement accounts

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MOST TYPICAL RMD PLANNING ARRANGEMENTS

Structure of Typical RMD Planning Arrangements

- tax-deferred retirement accounts
- lifetime income needs
- legacy goals

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Structure of Typical RMD Planning

Step 1 – Pre-RMD Planning

- Roth conversion of IRAs and 401(k) plans – no RMD during the owner’s lifetime; upon owner’s death, a designated beneficiary can wait till the 10th year to withdraw because the owner (regardless of age) is deemed to die BEFORE RBD
- early withdrawal at the age of 59 ½
- maximize health savings accounts
- if working and not 5% owner, roll the IRA to the 401(k) plan at the employer’s

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Structure of Typical RMD Planning

Step 2 – RMD in retirement

- QLAC and aggregation of annuitized and non-annuitized accounts
- in-kind distribution to satisfy RMDs
- QCD at the age of 70 ½ (for 2025 the amount is \$108,000)

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Structure of Typical RMD Planning

Step 3 – Post-mortem RMD

- 10-year rule for most beneficiaries (attention to whether the owner died before or after RBD)
- stretch for eligible designated beneficiaries (Treas. Reg. 1.401(a)(9)-4(e)(1))(spouse, child and age 21, disabled, chronically ill, not more than 10 years younger, and a designated beneficiary of an employee if the employee died before SECURE)
- spousal options to roll over inherited accounts into the spouse's own accounts or treat as the spouse's own account

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Income Tax Issues for Typical RMD Planning

Since RMDs are ordinary income, taxpayer's higher adjusted gross income may lead to an increase in Medicare premiums (Income Related Monthly Adjustment Account) and have a larger portion of Social Security benefits be taxable

Goal - reduction of OI via Roth conversion, QCD, or QLAC

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Income Tax Issues for Typical RMD Planning – Roth Conversion

Strategic use of resources for Roth Conversion

Example. Mark left his \$1,000,000 IRA to his spouse, Susan. Mark also left \$4,000,000 to a Marital Trust (QTIP) for Susan (mandatory income and discretionary principal) and \$5,000,000 to the Family Trust for Susan and Mark's children. Upon Susan's death, the Marital Trust will be in Susan's estate for federal estate tax purposes.

Goals – (i) minimize federal estate tax upon Susan's death on the Marital Trust, (ii) avoid taking RMDs from the IRA, and (iii) minimize income taxes on the IRA after Susan's death

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Income Tax Issues for Typical RMD Planning

Susan can (i) roll over the traditional IRA into her IRA, (ii) convert it to Roth, and (iii) have the Marital Trust distribute the increased amount of principal to Susan to satisfy her increased income tax liability upon Roth conversion.

During Susan's life, she does NOT need to take RMDs from the Roth IRA (i.e. Roth IRA grows income tax free).

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Income Tax Issues for Typical RMD Planning

Upon Susan's death (regardless of her age)

- she is deemed to die BEFORE RBD.
- So, the beneficiaries can wait for another 10 years before Roth IRA is liquidated tax free (more time for deferral).
- The Marital Trust assets were substantially reduced by (i) paying income tax upon Roth conversion and (ii) using to pay Susan's expenses since she did NOT take RMDs. Thus causing less assets subject to federal estate tax.

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PLR 202520014 – Know whether your IRA is Roth or Traditional – RMD

Taxpayer established a Roth IRA with Financial Institution B. Financial Institution worked with the Custodian C for Roth IRA.

Taxpayer got married and requested the name change on the Roth IRA. Financial Institution passed the paperwork to the Custodian who omitted “Roth” in the title. The IRA continued to be coded by Financial Institution as Roth.

Taxpayer made contributions as well as trustee-to-trustee transfers.

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PLR 202520014 – Know whether your IRA is Roth or Traditional – RMD

In 2021 Taxpayer realized that the IRA is Roth, not traditional. Requested a PLR allowing to recharacterize the IRA as traditional in 2025.

IRS granted the relief because the Taxpayer filed all the income tax returns, acted reasonably and in good faith, and before the IRS discovered the error.

Conclusion – the taxpayer must pay attention to Form 1099-R and form 5498 (that documents contributions, roll overs, Roth conversions and types of IRA the taxpayer holds)

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PLR 2004-53026 – Rolling Over One Retirement Plan to a Retirement Plan to Delay RMDs

Taxpayer was a 5% owner of Company X and an employee of Company Y. Both companies sponsored a retirement plan. Before the taxpayer reached the age for RMDs, the taxpayer rolled over the funds from Company X plan (where the taxpayer was a 5% owner) to Company Y retirement plan (where he was an employee). Since he was still working, he could delay his RMD until his retirement from Company Y.

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Examples from the Final Treasury Regulations (Treasury Decision 10001, 07/18/2024) - §1.401(a)(9)-1 Minimum distribution requirement in general. (See Treas. Reg. 1.401(a)(9)-1(b)(3) Examples).

Example 1

Employer M maintains a defined contribution plan, Plan X. Employee A died in 2017, at the age of 68, and designated A's 40-year-old child, B, who was not disabled or chronically ill at the time of A's death, as the sole beneficiary of A's interest in Plan X. Pursuant to a plan provision in Plan X, B elected to take distributions over B's life expectancy.

B dies in 2024 (after SECURE and SECURE 2.0). Because SECURE Act treats B as an eligible designated beneficiary, the 10-year rule applies to B's beneficiaries. Therefore, A's remaining interest in Plan X must be distributed by the end of 2034 (the calendar year that includes the tenth anniversary of B's death).

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§1.401(a)(9)-1 Minimum distribution requirement in general. (See Treas. Reg. 1.401(a)(9)-1(b)(3) Examples).

Example 2

Employer M maintains a defined contribution plan, Plan X. Employee A died in 2017, at the age of 68, and designated A's 40-year-old child, B, who was not disabled or chronically ill at the time of A's death, as the sole beneficiary of A's interest in Plan X. Pursuant to a plan provision in Plan X, B elected to take distributions over B's life expectancy.

B died in 2019. Because A's designated beneficiary died before the SECURE Act, its rules do not apply to B's beneficiaries and B's beneficiaries will use B's remaining life expectancy (not 10 years) to liquidate the account.

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§1.401(a)(9)-1 Minimum distribution requirement in general. (See Treas. Reg. 1.401(a)(9)-1(b)(3) Examples).

Example 3

Employer M maintains a defined contribution plan, Plan X. Employee A died in 2017, at the age of 68, and designated A's 40-year-old child, B, who was not disabled or chronically ill at the time of A's death, as the sole beneficiary of A's interest in Plan X. Pursuant to a plan provision in Plan X, B elected the 5-year rule.

Accordingly, A's entire interest is required to be distributed by the end of 2022. Because A died before January 1, 2020, SECURE 10-year rule does not apply with respect to B. Therefore, SECURE does not extend the 5-year period under B's election to a 10-year period.

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**§1.401(a)(9)-1 Minimum distribution requirement in general.
(See Treas. Reg. 1.401(a)(9)-1(b)(3) Examples).**

Although B's election required A's entire interest to be distributed by the end of 2022, the enactment of Section 401(a)(9)(I)(iii)(II) (permitting disregard of 2020 when the 5-year period applies) by CARES Act permits distribution of A's entire interest in the plan to be delayed until the end of 2023!

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**§1.401(a)(9)-1 Minimum distribution requirement in general.
(See Treas. Reg. 1.401(a)(9)-1(b)(3) Examples).**

Example 4

Employer M maintains a defined contribution plan, Plan X. Employee A died in 2017, at the age of 68, and designated a see-through trust as the sole beneficiary of A's interest in Plan X. All of the trust beneficiaries are alive as of January 1, 2020. The oldest of the trust beneficiaries, C, died in 2022. Because section 401(b)(5) of the SECURE Act treats C as an eligible designated beneficiary, the 10-year rule applies to the other trust beneficiaries. Thus, unless the trust is for a disabled or chronically ill beneficiary, A's remaining interest in Plan X must be distributed by the end of 2032 (the calendar year that includes the tenth anniversary of C's death).

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**§1.401(a)(9)-1 Minimum distribution requirement in general.
(See Treas. Reg. 1.401(a)(9)-1(b)(3) Examples).**

Example 5

Employer M maintains a defined contribution plan, Plan X. Employee A died in 2017, at the age of 68, and designated a see-through trust as the sole beneficiary of A's interest in Plan X.. The oldest trust beneficiary C died in 2019. Because the oldest designated beneficiary died before January 1, 2020, the 10-year rule does not apply to any of the other trust beneficiaries and the trust can use C's remaining life expectancy to withdraw the funds.

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**§1.401(a)(9)-1 Minimum distribution requirement in general.
(See Treas. Reg. 1.401(a)(9)-1(b)(3) Examples).**

Example 6

Employer M maintains a defined contribution plan, Plan X. Employee A died in 2017, at the age of 68, and designated A's 40-year-old child, B, who was not disabled or chronically ill at the time of A's death, as the sole beneficiary of A's interest in Plan X. Pursuant to a plan provision in Plan X, B elected to purchase an annuity that pays over B's lifetime with a 15-year certain period starting in the calendar year following the calendar year of A's death.

B dies in 2024 (after SECURE and SECURE 2.0). Because B died after SECURE, the 10-year rule applies, and accordingly, the annuity may not provide distributions any later than the end of 2034.

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**§1.401(a)(9)-4 Determination of the designated beneficiary.
(See Treas. Reg. Section 1.401(a)(9)-4(c)(3) Examples).**

Example 1

Employer M maintains a defined contribution plan, Plan X. Employee A dies in 2024 having designated A's three children—B, C, and D—as beneficiaries, each with a one-third share of A's interest in Plan X. B executes a disclaimer of B's entire share of A's interest in Plan X within 9 months of A's death and the disclaimer satisfies the other requirements of a qualified disclaimer under section 2518. Pursuant to the qualified disclaimer, B is disregarded as a beneficiary.

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**§1.401(a)(9)-4 Determination of the designated beneficiary.
(See Treas. Reg. Section 1.401(a)(9)-4(c)(3) Examples).**

Example 2

Employer M maintains a defined contribution plan, Plan X. Employee A dies in 2024 having designated A's three children—B, C, and D—as beneficiaries, each with a one-third share of A's interest in Plan X. B does not execute the disclaimer until 10 months after A's death. Even if the disclaimer is executed by September 30 of the calendar year following the calendar year of A's death, the disclaimer is not a qualified disclaimer (because B does not meet the 9-month requirement of section 2518) and B remains a designated beneficiary of A.

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**§1.401(a)(9)-4 Determination of the designated beneficiary.
(See Treas. Reg. Section 1.401(a)(9)-4(c)(3) Examples).**

Example 3

Employer M maintains a defined contribution plan, Plan X. Employee A dies in 2024 having designated A's three children—B, C, and D—as beneficiaries, each with a one-third share of A's interest in Plan X. B executes a disclaimer of B's entire share of A's interest in Plan X within 9 months of A's death. In exchange for B's disclaimer of the one-third share of A's interest in Plan X, C transfers C's interest in real property to B. Because B has received consideration for B's disclaimer of the one-third share, it is not a qualified disclaimer under section 2518 and B remains a designated beneficiary.

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**§1.401(a)(9)-4 Determination of the designated beneficiary.
(See Treas. Reg. Section 1.401(a)(9)-4(c)(3) Examples).**

Example 4

Employer M maintains a defined contribution plan, Plan X. Employee A dies in 2024 having designated A's three children—B, C, and D and Charity E (an organization exempt from taxation under section 501(c)(3)) as beneficiaries under the plan. As of the date of A's death, B, C, D, and Charity E each has a one-fourth share of A's interest in Plan X. Plan X distributes Charity E's one-fourth share of A's interest in the plan by September 30 of the calendar year following the calendar year of A's death. Accordingly, Charity E is disregarded as A's beneficiary, and B, C, and D are treated as A's designated beneficiaries.

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**§1.401(a)(9)-4 Determination of the designated beneficiary.
(See Treas. Reg. Section 1.401(a)(9)-4(c)(3) Examples).**

Example 5

Employer M maintains a defined contribution plan, Plan X. Employee A dies in 2024 having designated A's three children—B, C, and D and A's spouse, F, as beneficiaries under the plan. A and F were residents of State Z so that State Z law applies. The laws of State Z include a simultaneous death provision under which two individuals who die within a 120-hour period of one another are treated as predeceasing each other. F dies four hours after A and under the laws of State Z, F is treated as predeceasing A. Because, under applicable State law, F is treated as predeceasing A, F is disregarded as a beneficiary of A.

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**§1.401(a)(9)-4 Determination of the designated beneficiary.
(See Treas. Reg. Section 1.401(a)(9)-4(c)(3) Examples).**

Example 6

Employer M maintains a defined contribution plan, Plan X. Employee A dies in 2024 having designated A's three children—B, C, and D—as beneficiaries, each with a one-third share of A's interest in Plan X. B, who was alive as of the date of A's death, dies before September 30 of the calendar year following the calendar year of A's death. Prior to B's death, none of the events described in [other Examples dealing with B's disclaimers whether qualified or not qualified] occurred with respect to B. Accordingly, B is still a beneficiary taken into account for purposes of section 401(a)(9) regardless of the identity of B's successor beneficiaries.

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§1.401(a)(9)-4 – Eligible Designated Beneficiaries (See Treas. Reg. 1.401(a)(9)-4(e)(9) Examples).

Example 1

Employer M maintains a defined contribution plan, Plan X. Employee A designates A's child, B, as the sole beneficiary of A's interest in Plan X. B will not reach the age of majority until 2024. A dies on July 1, 2022, after A's required beginning date. As of the date of A's death, B is disabled within the meaning of [the Treasury Regulations]. On November 1, 2024, B satisfies the requirements of [the Treasury Regulations] by providing the plan administrator a letter from a licensed health care practitioner stating that, as of July 1, 2022, B is unable to engage in any substantial gainful activity by reason of a physical impairment that can be expected to be of long-continued and indefinite duration.

Due to B's disability, B remains an eligible designated beneficiary even after reaching the age of majority in 2024, and Plan X is not required to distribute A's remaining interest in the plan by the end of 2034 pursuant to the 10-year rule but instead may continue life expectancy payments to B during B's lifetime.

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§1.401(a)(9)-4 – Eligible Designated Beneficiaries (See Treas. Reg. 1.401(a)(9)-4(e)(9) Examples).

Example 2

Employer M maintains a defined contribution plan, Plan X. Employee A designates A's child, B, as the sole beneficiary of A's interest in Plan X. B will not reach the age of majority until 2024. A dies on July 1, 2022, after A's required beginning date. As of the date of A's death, B is disabled within the meaning of [the Treasury Regulations]. However, the documentation requirements of [the Treasury Regulations] are not timely satisfied with respect to B. B ceases to be an eligible designated beneficiary upon reaching the age of majority in 2024, and Plan X is required to distribute A's remaining interest in the plan by the end of 2034 pursuant to the 10-year rule.

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§1.401(a)(9)-4 – Eligible Designated Beneficiaries (See Treas. Reg. 1.401(a)(9)-4(e)(9) Examples).

Example 3

Employer M maintains a defined contribution plan, Plan X. Employee A designates A's child, B, as the sole beneficiary of A's interest in Plan X. B will not reach the age of majority until 2024. A dies on July 1, 2022, after A's required beginning date. B becomes disabled in 2023 (after A's death in 2022). Because B was not disabled as of the date of A's death, B ceases to be an eligible designated beneficiary upon reaching the age of majority in 2024, and Plan X is required to distribute A's remaining interest in the plan by the end of 2034 pursuant to the 10-year rule.

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§1.401(a)(9)-4 – Special Rules for Trusts (See Treas. Reg. 1.401(a)(9)-4(f)(6) Examples). Example 1

A. Facts

Employer L maintains a defined contribution plan, Plan W. Unmarried Employee C died in 2024 at age 30. Prior to C's death, C named a testamentary trust (Trust T) as the beneficiary of C's interest in Plan W. The terms of Trust T require that all distributions received from Plan W, upon receipt by the trustee, be paid directly to D, C's sibling, who is 5 years older than C. The terms of Trust T also provide that, if D dies before C's entire account balance has been distributed to D, E will be the beneficiary of C's remaining account balance.

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§1.401(a)(9)-4 – Special Rules for Trusts (See Treas. Reg. 1.401(a)(9)-4(f)(6) Examples). Example 1—

B. Analysis

Trust T is a conduit trust. Because Trust T is a conduit trust (meaning the residual beneficiary rule does not apply) and because E is only entitled to any portion of C's account if D dies before the entire account has been distributed, E is disregarded in determining C's designated beneficiary. Because D is an eligible designated beneficiary, D may use the life expectancy rule. Accordingly, even if D dies before C's entire interest in Plan W is distributed to Trust T, D's life expectancy continues to be used to determine the applicable denominator. Note, however, that because 10-year rule applies in this situation after D's death, a distribution of C's entire interest in Plan W will be required no later than the end of the calendar year that includes the tenth anniversary of D's death.

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§1.401(a)(9)-4 – Special Rules for Trusts (See Treas. Reg. 1.401(a)(9)-4(f)(6) Examples). Example 2—

(A) Facts related to plan and beneficiary

Employer M maintains a defined contribution plan, Plan X. Employee A died in 2024 at the age of 55, survived by Spouse B, who was then 50 years old. A's account balance in Plan X is invested only in productive assets and was includible in A's gross estate under section 2039. A named a testamentary trust (Trust P) as the beneficiary of all amounts payable from A's account in Plan X after A's death. Trust P satisfies the see-through trust requirements.

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§1.401(a)(9)-4 – Special Rules for Trusts (See Treas. Reg. 1.401(a)(9)-4(f)(6) Examples). Example 2—

(B) Facts related to trust

Under the terms of Trust P, all trust income is payable annually to B, and no one has the power to appoint or distribute Trust P principal to any person other than B. A's sibling, C, who is less than 10 years younger than A (and thus is an eligible designated beneficiary) and is younger than B, is the sole residual beneficiary of Trust P. Also, under the terms of Trust P, if C predeceases B, then, upon B's death, all Trust P principal is distributed to Charity Z (an organization exempt from tax under section 501(c)(3)). No other person has a beneficial interest in Trust P.

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§1.401(a)(9)-4 – Special Rules for Trusts (See Treas. Reg. 1.401(a)(9)-4(f)(6) Examples). Example 2— (cont.)

Under the terms of Trust P, B has the power, exercisable annually, to compel the trustee to withdraw from A's account balance in Plan X an amount equal to the income earned during the calendar year on the assets held in A's account in Plan X and to distribute that amount through Trust P to B. Plan X includes no prohibition on withdrawal from A's account of amounts in excess of the annual required minimum distributions.

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§1.401(a)(9)-4 – Special Rules for Trusts (See Treas. Reg. 1.401(a)(9)-4(f)(6) Examples). Example 2— (cont.)

In accordance with the terms of Plan X, the trustee of Trust P elects to take annual life expectancy payments pursuant. If B exercises the withdrawal power, the trustee must withdraw from A's account under Plan X the greater of the amount of income earned in the account during the calendar year or the required minimum distribution. However, under the terms of Trust P, and applicable State law, only the portion of the Plan X distribution received by the trustee equal to the income earned by A's account in Plan X is required to be distributed to B (along with any other trust income).

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§1.401(a)(9)-4 – Special Rules for Trusts (See Treas. Reg. 1.401(a)(9)-4(f)(6) Examples). Example 2—

(C) Analysis

Because Trust P does not require that distributions from A's account in Plan X to Trust P, upon receipt by the trustee, be paid directly to (or for the benefit of) B, Trust P is not a conduit trust and accordingly is an accumulation trust. C, as the residual beneficiary of Trust P, is treated as a beneficiary designated under Plan X (even though access to those amounts is delayed until after B's death). Because Charity Z's entitlement to amounts in the trust is based on the death of A's sibling, C, Charity Z is disregarded as a beneficiary of A.

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§1.401(a)(9)-4 – Special Rules for Trusts (See Treas. Reg. 1.401(a)(9)-4(f)(6) Examples). Example 2—

The designated beneficiary used to determine the applicable denominator is the oldest of the designated beneficiaries of Trust P's interest in Plan X. B is the oldest of the beneficiaries of Trust P's interest in Plan X (including residual beneficiaries). Thus, the applicable denominator is B's life expectancy.

Because C is a beneficiary of A's account in Plan X in addition to B, B is not the sole beneficiary of A's account and the special rule dealing with further deferrals available to a surviving spouse is not available. Accordingly, the annual required minimum distributions from the account to Trust P must begin no later than the end of the calendar year following the calendar year of A's death.

Since all accountable beneficiaries are eligible designated beneficiaries (i.e. surviving spouse and no more than 10 years younger sibling), the oldest beneficiary's life expectancy will be used to pay out the plan funds.

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§1.401(a)(9)-4 – Special Rules for Trusts (See Treas. Reg. 1.401(a)(9)-4(f)(6) Examples). Example 3—

(A) Facts

Under the terms of Trust P, all trust income is payable annually to B, and no one has the power to appoint or distribute Trust P principal to any person other than B. A's sibling, C, who is more than 10 years younger than A (and thus is NOT an eligible designated beneficiary) and is younger than B, is the sole residual beneficiary of Trust P. Because C is more than 10 years younger than A, at least one of the beneficiaries of Trust P's interest in Plan X is not an eligible designated beneficiary.

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§1.401(a)(9)-4 – Special Rules for Trusts (See Treas. Reg. 1.401(a)(9)-4(f)(6) Examples). Example 3—

(B) Analysis

A is treated as not having an eligible designated beneficiary. The trustee of Trust P is not permitted to make an election to take annual life expectancy distributions and the 10-year rule applies.

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§1.401(a)(9)-4 – Special Rules for Trusts (See Treas. Reg. 1.401(a)(9)-4(f)(6) Examples). Example 4—

(A) Facts related to plan and beneficiary

Employer N maintains a defined contribution plan, Plan Y. Employee F died in 2025 at the age of 60. F named a testamentary trust (Trust Q), which was established under F's will, as the beneficiary of all amounts payable from F's account in Plan X after F's death. Trust Q satisfies the see-through trust.

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§1.401(a)(9)-4 – Special Rules for Trusts (See Treas. Reg. 1.401(a)(9)-4(f)(6) Examples). Example 4—

(B) Facts related to trust

Under the terms of Trust Q, all trust income is payable to F's surviving spouse G for life, no person has the power to appoint or distribute Trust Q principal to any person other than G, and G has a testamentary power of appointment to name the beneficiaries of the remainder in Trust Q.

The power of appointment provides that, if G does not exercise the power, then upon G's death, F's descendants, per stirpes, are entitled to the remainder interest in Trust Q. As of the date of F's death, F has two children, K and L, neither of whom is disabled, chronically ill, or under age 21. Before September 30 of the calendar year following the calendar year in which F died, G irrevocably restricts G's power of appointment so that G may exercise the power to appoint the remainder beneficiaries of Trust Q only in favor of G's siblings (who all are less than 10 years younger than F and thus, are eligible designated beneficiaries).

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§1.401(a)(9)-4 – Special Rules for Trusts (See Treas. Reg. 1.401(a)(9)-4(f)(6) Examples). Example 4—

(C) Analysis

Because G timely restricted the power of appointment so that G may exercise the power to appoint the residual interest in Trust Q only in favor of G's siblings, the designated beneficiaries are G and G's siblings. Because all of the designated beneficiaries are eligible designated beneficiaries, annual life expectancy payments are permitted. Note, however, that after G's death, a distribution of the remaining interest is required by no later than 10 years after the calendar year in which the oldest of G and G's siblings dies.

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§1.401(a)(9)-4 – Special Rules for Trusts (See Treas. Reg. 1.401(a)(9)-4(f)(6) Examples). Example 5—

(A) Facts

The facts are the same as above except that G does not restrict the power by September 30 of the calendar year following the calendar year of F's death.

(B) Analysis

G, K, and L are treated as F's beneficiaries. Because K and L are not eligible designated beneficiaries, the trustee of Trust Q is not permitted to make an election to take annual life expectancy distributions, and the 10-year rule applies.

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Thank You!



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