RMD and 401(a)(9) Table Changes

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Topics

• IRS Proposed Regulations on RMD’s
• SECURE Act Legislative Changes to 401(a)(9)
• Effective Date Issues
• Impact on Operations
• Questions

RMD Table Updates

• August 31, 2018 Executive Order on Strengthening Retirement Security in America
  • Section 2d called for updating life expectancy and distribution period tables for RMD rules
  • ARA letter to Treasury dated 10/5/18 raised effective date concerns
• IRS and Treasury issue proposed regulations 11/8/19
  • Comments due 1/7/20
  • Public hearing on 1/23/20
• Last update was in 2002
Updating IRS 2002 Final Regulations

• 2002 Final Regulations (67 FR 18988)
  • Developed using mortality rates for 2003
  • Applied mortality improvements through 2003 to Annuity 2000 Basic Table
    (projecting mortality rates from 1983 IAM Basic Table)
  • Longer life expectancies would result in lower required minimum distributions

New mortality projections in 2019 Proposed Regulations

• Based on mortality rates for 2021
  • Apply mortality improvements through 2021 to mortality rates used in 2012
    IAM tables; projected from central year of 2002 using mortality improvement rates
    Scale MP—2018 for males and females
    • Available at SOA website (Mortality Improvement Scale MP-2018)
    • Separate male and female mortality rates were blended with fixed 50 percent female—
      50 percent male

Effective date of 2019 Proposed Regulations

• New tables under Proposed Regs would apply for distribution calendar years beginning on or after 1/1/21
  • Distribution calendar year = calendar year for which a minimum distribution is required
    • E.g., if required beginning date is April 1, 2019 (and participant turned 70½ in 2018),
      the distribution calendar year is 2018
    • If the participant is a non-5% owner and is still working, the RBD date would be later
      than 70½
  • Refresher: RBD = April 1 of the calendar year following the later of (1) the calendar year person turns 70½, or (2) the calendar year the person retires [prior to SECURE]
Examples of Effective Date (disregarding SECURE)

• Applies for distribution calendar years beginning on or after 1/1/21

  • Example 1: Individual turns 70½ during 2020
    • MRD is due 4/1/21, for 2020 distribution calendar year
    • New regs would not apply for 4/1/21 MRD, but would apply for 2021 distribution (due by 12/31/21)

  • Example 2: Individual turns 70½ during 2021
    • MRD is due 4/1/22, for 2021 distribution calendar year
    • New regs would apply to 2021 MRD

  • Example 3: Individual is 75 during 2021
    • MRD due 12/31/21, for 2021 distribution calendar year
    • New regs would apply to 2021 MRD

Single Life and Uniform Life Tables under 2019 Proposed Regulations reflect longer life expectancies

• Example 3: 70 year old IRA owner with Uniform Lifetime Table uses life expectancy of 27.4 years under existing table
  • Uses 29.1 years under new table (1.7 additional years)

• Example 4: 75 year old surviving spouse with Single Life Table uses life expectancy of 13.4 years
  • Uses 14.8 years under new table (1.4 additional years)

Transition Rule—deaths before 1/1/21

• Employee died or dies before 1/1/21 (i.e., before effective date of final regulations)

• Distribution period must be reset for life expectancy of beneficiary in 3 situations:
  • Situation 1: employee dies before RBD with non-spousal beneficiary
  • Situation 2: employee died after RBD with no beneficiary
  • Situation 3: employee is younger than designated beneficiary, and employee dies after RBD
Transition Rule—Situation 1

• Situation 1: employee dies before RBD with non-spousal beneficiary
  • Distribution period is based on remaining life expectancy of beneficiary for
    the calendar year following the year of death
  • Distribution period is reset for 2021 RMD by transitioning to new tables
    assuming they were always in effect, using the beneficiary’s age in 2021

Transition Rule Example—Situation 1

• Employee dies at age 80 in 2018 (after RBD)
• Nonspousal designated beneficiary is age 75 in 2018
• For 2019, distribution table under Single Life Table applicable to beneficiary
  was 12.7 years (using age 76 for 2019)
• For 2020, distribution period would be 11.7 (12.7 minus 1)
• For 2021, post-effective date, transition rule kicks in
  • Distribution period for 76 year old in new tables for 2019 would be 14.0; do
    a one-time reset for 2021 of 14.0 minus 2 years, or 12.0, for the 78 year old
    beneficiary in 2021
  • This compares to a distribution period of 10.7 years in 2021 under the old
    tables (new table has a distribution that is 12% smaller)

Transition Rule—Situation 2

• Situation 2: employee died after RBD with no beneficiary (1.401(a)(9)-
  5(c)(3))
  • Distribution period is based on remaining life expectancy of employee for the
    year of the employee’s death
  • Distribution period is reset in 2021 by transitioning to new tables assuming
    they were always in effect, using the age of employee in 2021
Transition Rule—Situation 3

- Situation 3: employee is younger than designated beneficiary, and employee dies after RBD
- Distribution period is based on remaining life expectancy of employee for the year of the employee's death
- Distribution period is reset in 2021 by transitioning to new tables assuming they were always in effect, using the age of the employee in 2021

Additional Similar Transition Rule

- Employee's sole beneficiary is surviving spouse
- Surviving spouse died before 1/1/21 effective date
- Distribution period that applies for spouse's beneficiary is single life expectancy for spouse in spouse's year of death, reduced by one for each subsequent year
- Use a similar reset with the updated Single Life Table by reducing the initial life expectancy by 1 for each year after year it was initially set

Substantially Equal Periodic Payments

- Substantially equal payments started before 1/1/21 effective date
- Rev. Proc. 2002-62 was used
- If either fixed amortization or fixed annuitization method under Rev. Proc. 2002-62 was used:
  - Either method can be updated using new tables without the update being treated as a modification of series of SEPP for purposes of section 72(t)(4)(A)(i) early distribution tax
ARA Comment Letter on Proposed Regulations

• Submitted to IRS and Treasury 1/6/20
• On ARA website
• Letter urges reasonable implementation timeframe
• Raises SECURE Act issues

SECURE Act Changes to 401(a)(9)—section 114 of SECURE

• Age 70 ½ changes to age 72
• Modifies RMD rules for stretch IRA's to a 10 year rule
• JCT Explanation (JCX-13-19, 4/1/19)

Applicability to retirement plans

• New rules apply to “defined contribution plans”, defined under IRC 402(c)(8)(B) other than defined benefit plans. Thus:
  • Qualified retirement plans (like 401(k), 403(a))
  • 403(b) plans
  • Governmental 457(b) plans
  • IRA's
**Age 70 ½ is Changed to age 72**

- Applies to distributions required after 12/31/19, with respect to individuals who turn 70 ½ after 12/31/19 (section 114 of SECURE Act)
- Actuarial adjustment for post-70 ½ distributions in DB plans is NOT changed....but is there a technical correction needed?

**Examples (assume A and B are retired)**

- Person A turns 70 on May 1, 2019
- A turns 70 ½ on November 1, 2019
- A did not turn 70 ½ after 12/31/19
- A’s RBD is 4/1/20

- Person B turns 70 on August 1, 2019
- B turns 70 ½ on February 1, 2020
- B does turn 70 ½ after 12/31/19
- B turns 72 in 2021
- B’s RBD is 4/1/22

- A few months makes a big difference!

**New IRS Relief as of 11:12 am Pacific time today!!!**

- Notice 2020-6 provide RMD relief for RMD reporting
- SECURE Act section 114 had immediate implications for 2020 reporting
- Effective for individuals attaining age 70 ½ in 2020
New IRS Relief as of 11:12 am Pacific time today!!!

• If there is RMD for 2020, financial institutions must:
  • File 2019 Form 5498 by June 1, 2020, and check box 11 that RMD required for 2020
  • Under Notice 2002-27, furnish RMD statement to IRA owner by January 31, 2020 (which is next Friday!)
  • Now, this statement should NOT be sent by 1/31/20
  • Relief given to say that this is not considered an incorrect statement

New IRS Relief as of 11:12 am Pacific time today!!!

• To get relief, financial institution must notify IRA owner no later than April 15, 2020 that no RMD is required for 2020
• All financial institutions encouraged to communicate with IRA owners who attained age 70 ½ in 2019 that they STILL need to take RMD by April 1, 2020 (this is still the RBD for their first RMD)
• Treasury and IRS considering additional guidance if a distribution to a participant or IRA owner who attains age 70 ½ in 2020 was treated as an RMD

Actuarial Adjustment

• JCT report on House Ways and Means markup makes clear pre-SECURE Act law requirement to actuarially adjust benefits beginning at age 70 ½ “is not changed”. (JCX-11-19, page 37)
• However, there is a technical glitch
  • Section 401(a)(9)(C)(iii) provides: “In the case of an employee to whom clause (i)(ii) applies who retires in a calendar year after the calendar year in which the employee attains age 70 ½, the employee’s accrued benefit shall be actuarially increased to take into account the period after age 70 ½ in which the employee was not receiving any benefits under the plan.” (emphasis added).
401(a)(9)(C)(i) RBD definition

(i) In general. The term "required beginning date" means April 1 of the calendar year following the later of—
   (I) the calendar year in which the employee attains age 70 ½
   (II) the calendar year in which the employee retires.

Modification of RMD's for DC plans and IRA's

- Section 401 of SECURE: Distributions to individuals other than:
  - Surviving spouse of employee or IRA owner
  - Disabled or chronically ill individuals
  - Individuals not more than 10 years younger than employee or IRA owner
  - A child of employee or IRA owner who has not reached age of majority
    [these are termed "eligible designated beneficiaries"]
- are required to be distributed by the end of the 10th calendar year following the year of the employee or owner's death
- Effective for distributions for employees who die after 12/31/19
- 10 year rule applies regardless of whether employee dies before, on, or after RBD, unless beneficiary is an "eligible designated beneficiary"

Stretch IRA modifications

- JCT scored this as $15.749 billion revenue raiser over 10 years
- This essentially paid for the SECURE Act
- Increase in RBD age to 72 cost $8.859 billion over 10 years
- The two RMD provisions have the biggest revenue impacts in the SECURE Act by far
Special Rule for Certain Trusts for Disabled or Chronically ill beneficiaries:

- Added to SECURE after House passed SECURE Act in May 2019
- Multi-beneficiary trusts
  - Immediate division into separate trusts (apply 10-year rule or lifetime payout separately)
  - No non-disabled or non-chronically ill individuals get any payout until the deaths of all disabled or chronically ill individuals (then remaining beneficiaries are treated as beneficiaries of disabled or chronically ill individuals; they then get 10-year rule)

Effective Dates—section 401 of SECURE

- 10 year rule/Stretch IRA changes apply to distributions for employees who die after 12/31/19
- Collective bargaining exception may give more time, but not later than deaths after 12/31/21
- 414 (d) governmental plans have until deaths after 12/31/21
- Grandfather for existing annuity contracts in effect on 12/20/19 at all times thereafter
- Exceptions for individuals who die before one of the above effective dates

Impact on Operations

- SPARK comment letter to Treasury
- JCT explanation/discussion
- Financial institutions require time to update software and communications, etc.
- Additional guidance needed from IRS and Treasury on SECURE!
Questions

• Any questions?
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