

MEMO# 35856

September 18, 2024

ICI Submits Comment Letter Regarding Proposed Regulations on Required Minimum Distributions from Retirement Plans and IRAs Addressing SECURE 2.0 Act Changes

[35856]

September 18, 2024

TO: ICI Members

Pension Committee

Pension Operations Advisory Committee SUBJECTS: Pension

Tax RE: ICI Submits Comment Letter Regarding Proposed Regulations on Required Minimum Distributions from Retirement Plans and IRAs Addressing SECURE 2.0 Act Changes

On September 17, 2024, ICI sent the attached comment letter to the IRS and Treasury, responding to the notice of proposed rulemaking^[1] (the "Proposal") that would amend the regulations governing required minimum distributions (RMDs) from retirement plans and IRAs to reflect changes made by the SECURE 2.0 Act.^[2]

Background

On the same day that they issued the Proposal, Treasury and IRS also published final regulations relating to RMDs ("2024 Final Regulations"), finalizing the proposal issued in 2022 ("2022 Proposal").^[3] The 2024 Final Regulations amend the regulations under section 401(a)(9) of the Code, and other related sections, to reflect changes to the RMD rules enacted under the Setting Every Community Up for Retirement Enhancement Act of 2019 ("SECURE Act") and other legislation over the years.^[4] The 2024 Final Regulations also reflect certain changes enacted under the SECURE 2.0 Act, which was enacted after the issuance of the 2022 Proposal.^[5] The Proposal would address various provisions that were reserved in the 2024 Final Regulations, relating to changes made by the SECURE 2.0 Act and certain other issues.

Comment Letter

Our comments and recommendations include the following:

- Applicability Dates and Good Faith Compliance Standard. Provide relief by delaying the applicability date of the Proposal and confirm good faith interpretation relief with respect to the Proposal, as well as the provision in the Final Regulation addressing section 327 of the SECURE 2.0 Act.[\[6\]](#) (Section 1)
- Spousal Election to Use Uniform Lifetime Table for RMD Calculation - Optional Election. Provide clarity on the automatic application of this optional provision.[\[7\]](#) (Section 2.1)
- Spousal Election to Use Uniform Lifetime Table for RMD Calculation - Eligibility. Provide more flexibility on the applicability date for the spousal election (i.e., the election should be available for any elections made on or after January 1, 2024). (Section 2.2)
- Spousal Election to Use Uniform Lifetime Table for RMD Calculation - IRA issues. Confirm application of spousal election for inherited spousal IRAs and allow election when the surviving spouse is the sole beneficiary of a see-through trust. (Section 2.3)
- Spousal Election to Use Uniform Lifetime Table for RMD Calculation - Additional Examples. Provide additional examples addressing the spousal election under different fact scenarios. (Section 2.4)
- Treatment of Designated Roth Accounts. Address the treatment of participant accounts that include both Roth and pre-tax amounts, for distributions after the participant's death.[\[8\]](#) (Section 3)
- Partial Annuitization for IRAs and Plans. Clarify that the optional aggregation rules of section 204 of the SECURE 2.0 Act extend to all partial annuity situations within a single IRA, and, for plans, that the aggregation rules extend to qualified plan distribution annuities. (Section 4)
- Outright Distribution to Trust Beneficiary. Confirm proper reporting for establishing an inherited IRA outright in the name of the beneficiary, in the case of a distribution from a see-through trust. (Section 5)
- 2024 Final Regulations - Final RMD in Year of Death. Eliminate the overly complex rule addressing RMD shortfalls in the year of the participant's death, in the case of multiple IRAs with different beneficiaries. (Section 6.1)
- 2024 Final Regulations - Eligible Rollover Distributions for a Uniform Required Beginning Date. Provide additional clarity on plan's ability to require benefits to commence on a uniform required beginning date (RBD), which is earlier than an individual's otherwise applicable RBD. (Section 6.2)
- 2024 Final Regulations - At Least As Rapidly Transition Relief. Clarify the proper RMD calculations for beneficiaries that have taken advantage of the transition relief regarding the failure to take annual RMDs under the application of the "at least as rapidly" rule. (Section 6.3)
- 2024 Final Regulations - Repayment Rights. Confirm treatment for RMD purposes of special repayments that are treated as rollover contributions (e.g., repayment of a qualified disaster recovery distribution). (Section 6.4)

Shannon Salinas
Associate General Counsel - Retirement Policy

Notes

[\[1\]](#) For background and a description of the Proposal, see ICI Memorandum No. 35798, dated July 31, 2024, available at <https://www.ici.org/memo35798>. The Proposal was

published at 89 Fed. Reg. 58644 (July 19, 2024) and is available at <https://www.govinfo.gov/content/pkg/FR-2024-07-19/pdf/2024-14543.pdf>.

[2] For more background on the SECURE 2.0 Act, see ICI Memorandum No. 34795, dated January 12, 2023, available at <https://www.ici.org/memo34795>.

[3] For a description of the 2024 Final Regulation, see ICI Memorandum No. 35798, dated July 31, 2024, available at <https://www.ici.org/memo35798>. For background and a description of the 2022 Proposal, see ICI Memorandum No. 34057, dated March 4, 2022, available at <https://www.ici.org/memo34057-0>. The 2022 Proposal was published at 87 Fed. Reg. 10504 (February 24, 2022), and is available at <https://www.govinfo.gov/content/pkg/FR-2022-02-24/pdf/2022-02522.pdf>.

[4] For a summary of the SECURE Act, see ICI Memorandum No. 32118, dated December 20, 2019, available at <https://www.ici.org/memo32118>.

[5] As explained in the preamble to the 2024 Final Regulations, "[s]ome of the rules in these final regulations that reflect provisions of the SECURE 2.0 Act are a clear application of statutory language for which it is unnecessary to solicit comments (see 5 U.S.C. 553(b)). Other rules in these final regulations are the logical outgrowth of rules in the proposed regulations that take into account both the comments received on those proposed rules and the subsequent enactment of the SECURE 2.0 Act." 89 Fed. Reg. at 58890.

[6] The 2024 Final Regulations generally provide for a good faith interpretation for compliance with the requirements of the SECURE Act and the SECURE 2.0 Act (but excludes the surviving spouse election to be treated as the employee, under section 327 of the SECURE 2.0 Act) prior to such date. Treasury and IRS do not explain why the good faith compliance provision does not apply with respect to section 327 of the SECURE 2.0 Act.

[7] Section 327 of the SECURE 2.0 Act harmonizes the RMD treatment applicable to surviving spouses under plans and IRAs by allowing a surviving spouse beneficiary under an employer-sponsored retirement plan to elect to receive a similar distribution period for lifetime distributions as is currently permitted in an IRA (i.e., allowing calculation of RMDs using the Uniform Lifetime Table). The Proposal provides that, in certain cases, the spouse would automatically be treated as making the election.

[8] Section 325 of the SECURE 2.0 Act harmonizes the RMD rules for Roth amounts in plans and IRAs by exempting Roth amounts in plans from RMD requirements during the life of the participant. The 2024 Final Regulations also address the change, and its effect on distributions after the death of the participant, indicating that if a participant's entire account consists of Roth amounts, the beneficiary shall be subject to the rules applicable for a participant who dies prior to their RBD. See § 1.401(a)(9)-3(a)(2) of the 2024 Final Regulations.