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TaxNewsFlash

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Notice 2022-53: Required minimum distributions

The IRS today released an advance version of **Notice 2022-53** [PDF 143 KB] announcing that the Treasury Department and the IRS intend to issue final regulations related to required minimum distributions under section 401(a)(9) that will apply no earlier than the 2023 distribution calendar year. In addition, today's notice provides guidance related to certain provisions of section 401(a)(9) that apply for 2021 and 2022.

Background

The IRS on February 24, 2022, issued proposed regulations under section 401(a)(9) to reflect amendments made to section 401(a)(9) by provisions of the "Setting Every Community Up for Retirement Enhancement Act of 2019" (SECURE Act), enacted on December 20, 2019, as Division O of the Further Consolidated Appropriations Act of 2019, Pub. L. No. 116-94. The proposed regulations provided that the regulations, when finalized, would apply beginning with the 2022 distribution calendar year. Read ***TaxNewsFlash***

In particular, the SECURE Act added section 401(9)(H) which provides that if an employee in a defined contribution plan has a designated beneficiary, the 5-year period for distributions after the death of the employee is lengthened to 10 years and the new 10-year rule applies regardless of whether the employee dies before the required beginning date. In addition, the exception to the 10-year rule (under which the 10-year rule is treated as satisfied if distributions are paid over the designated beneficiary's lifetime or life expectancy) applies only if the designated beneficiary is an eligible designated beneficiary. When an eligible designated beneficiary dies before that individual's portion of the employee's interest in the plan has been distributed, the beneficiary of the eligible designated beneficiary will be subject to a requirement that the remainder of that individual's portion be distributed within 10 years of the eligible designated beneficiary's death. In addition, when a minor child reaches the age of majority, that child will no longer be considered an eligible designated beneficiary and the remainder of that child's portion of the employee's interest in the plan must be distributed within 10 years of that date.

Notice 2022-53 states that Treasury Department and the IRS received comments on the proposed regulations from individuals who are owners of inherited individual retirement accounts (IRAs) or are beneficiaries under qualified defined contribution plans or section 403(b) plans, indicating that they thought the new 10-year rule would apply differently than what was proposed in the proposed regulations. Specifically, commenters believed that, regardless of when an employee died, the 10-year rule would operate like the 5-year rule, under which there would not be any required minimum distribution due for a calendar year until the last year of the 5- or 10-year period following the specified event (the death of the employee, the death of the eligible designated beneficiary, or the attainment of the age of majority for the employee's child who is an eligible designated beneficiary). Commenters in those situations who are heirs or beneficiaries of individuals who died in 2020 explained that they did not take a required minimum distribution in 2021 and are unsure of whether they would be required to take a required minimum distribution in 2022. Commenters asserted that, if final regulations adopt the interpretation of the 10-year rule set forth in the proposed regulations, the Treasury Department and the IRS should provide transition relief for failure to take distributions that are required minimum distributions due in 2021 or 2022 pursuant to section 401(a)(9)(H) in the case of the death of an employee (or designated beneficiary) in 2020 or 2021.

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