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ALSO IN THIS ISSUE –

Collin W. Fritz and Associates, Inc.,
"The Pension Specialists "

Additional SECURE ACT Guidance

Including Guidance on IRA Amendments

The IRS issued Notice 2020-68 on September 8, 2020. It furnishes additional guidance for IRA and qualified plans. IRAs (and qualified pension plans) are subject to the rule that in order to take a certain action the plan document must authorize that action, be it a contribution, a distribution, or an investment. The law is complicated because the IRS requires certain laws be set forth in the plan document for the plan document to be qualified and entitled to receive the associated tax benefits. Other laws are permissive and are not required to be set forth in the IRA plan agreement for the IRA or qualified plan to be qualified.

It's been a long time since the IRS has discussed the topic of an IRA custodian's duty to furnish an IRA amendment. Many institutions have adopted the approach, since the IRS hasn't said anything about amendments, we don't need to furnish our existing IRA accountholders and beneficiaries with an IRA amendment. The IRS has now spoken.

The SECURE Act repealed the age 70½ and older eligibility contribution rule. A person older than age 70½ is now eligible to make an IRA contribution as long as they have qualifying compensation. The IRS has stated a financial institution serving as the IRA custodian/trustee may accept such a contribution and the individual is authorized to make such a contribution only if the IRA is amended. If the IRA has not been amended, such contribution is unauthorized. Presumably, it would be an excess contribution subject to the 6% excess contribution tax. The other alternative is, the IRA becomes unqualified because of the SECURE Act and the CARES Act and there is a deemed distribution.

In general, both the IRA plan agreement and the IRA disclosure statement must be amended.

The IRS cited the governing regulation for when the IRA must be amended. The IRS indicates it will be modifying its model IRA forms, but the IRS did not furnish a tentative date for doing so. The IRS must revise the Article four dealing with the required distribution rules. These RMD law changes are mandatory and are not permissive. In general, such amendments must be adopted by December 31, 2022.

Note that for a permissive law change, the IRA custodian may amend some customer IRAs, but not others. This would create some administrative complexities. For example, the IRAs of all individuals aged 70½ or older could be amended and not those under age 70½ in 2020. A mandatory law change requires all existing IRAs be amended.

The IRA plan agreements set forth in CWF's IRA FormSystem have been revised to set forth the changes made by the SECURE Act and the CARES Act including the right of a person age 70½ or older to make a contribution as long as the person has qualifying compensation. Those institutions which have pur-

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SECURE Act,
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chased CWF's 2019-2020 IRA amendment may accept such IRA contributions.

We at CWF are able to furnish an IRA custodian with an IRA amendment. Send us an email and we will contact you to discuss your situation. Many institutions will want to furnish an IRA amendment by January 31, 2021, in order to realize cost savings from a combined mailing. We may assist you even if your IRA plan agreement has not been provided written by CWF, but another IRA vendor.

IRS Guidance on Reducing a Person's QCD if Deductible Contributions Are Made

Additional IRS Guidance Is Needed

Section 107 of the SECURE Act repealed the maximum age rule for traditional IRA contributions. An individual over age 70$^1/_2$ with qualifying compensation is now eligible to make a traditional IRA contribution. However, this new law also coordinates a person's QCDs with their deductible IRA contributions. For tax years commencing after December 31, 2019, a person who makes a deductible contribution is required to reduce their QCD amount by the amount of their deductible contributions. Some IRA owners used to excluding 100% of the distribution as a QCD will no longer be eligible to do so if they choose to make a deductible contribution.

The coordination of QCDs and claimed tax deductions is not just for one year. Aggregation over multiple years is required. A person's otherwise non-taxable QCD amount is reduced (but not below zero) by an amount equal to the excess of the aggregate of a person's deductions for all tax years ending on or after the person attains age 70$^1/_2$ over the aggregate of prior year reductions in their QCDs.

In Notice 2020-68 the IRS furnished the following illustration as modified by CWF. Example. An individual who attained age 70$^1/_2$ before 2020, makes a deductible contribution of $5,000 for 2020 and also for 2021. She made no QCD for 2020, but she made a QCD of $6,000 for 2021 and a QCD of $6,500 for 2022.

For 2020 she claims a deduction for $5000 for her traditional IRA contribution. She claims no QCD for 2020 because she made no QCD.

For 2021 she also claims a deduction of $5,000 for her traditional IRA contribution. She is unable to claim a QCD for her gift of $6,000 because she has claimed deductions of $10,000 (aggregate 2020 and 2021) and this amount exceeds her QCD gift amount of $6,000.

For 2022 she does not claim a deduction because she has made no traditional IRA contribution. However, she has made a QCD $6,500. Because her aggregated gifts of $12,500 exceed her claimed deductions of $10,000, she is able to exclude $2,500 of her QCD of $6,500.

Presumably, if a person no longer is eligible to exclude a certain amount of their QCD from their income, then that same amount may not be used to satisfy their RMD for that year. The IRS discussion does not illustrate how a person's RMD is impacted by this new coordination rule. In Q&A 42 of Notice 2007-7 the IRS had expanded the tax benefit of making a QCD. Not only was the person able to exclude the QCD from income, but it could be taken into account when determining if a person has satisfied his or her RMD. The IRS will need to provide further guidance. At this point we understand she would have to withdraw her full RMD amount for 2020 and 2021. For 2022, the $2,500 which she is eligible to exclude from income, she may use this to satisfy or partially satisfy her 2022 RMD.

In summary, an individual over age 70$^1/_2$ may now make a deductible traditional IRA annual contribution, but some (maybe many) individuals may decide because of this coordination rule and the effect it has on their annual RMD that they will not make a deductible contribution.

What RMD beneficiary rule applies to an estate or other non-individual when a traditional IRA, SEP-IRA or SIMPLE-IRA owner dies in 2020 after their required beginning date?

We at CWF believe the 5-year rule applies to an estate beneficiary and not the 10-year rule or the special life distribution rule.

Other IRA firms have apparently concluded that such a beneficiary has been grandfathered and is able to use the pre-2020 rule that the special life distribution rule may be used and it is based on the age of the IRA owner in the year the IRA owner died and then adjusted for subsequent years. This was the position of two large IRA vendors, but one of them recently described their new guidance as a new consideration. This IRA vendor now agrees the 5-year rule applies to an estate which is the beneficiary of an IRA owner who dies after the required beginning date in 2020.

This issue is important because liability issues for the financial institution could arise in this situation. Note this situation does not apply to Roth IRAs because the RMD rules applying to Roth IRAs are different from those applying to a traditional IRA, SEP-IRA or SIMPLE-IRA. The law is clear that five year rule applies if a Roth IRA owner dies having designated his or her estate to be the beneficiary regardless if the individual dies before or after their required beginning date.

Illustration. John Doe age 73 has a traditional IRA with a balance of $80,000.He has designated his estate to be his beneficiary. He dies on 7/7/20. There are two beneficiaries of his estate. His son is age 45 in 2020 and his daughter is age 48 in 2020. When is the estate required to close the inherited IRA?

The possible answers are. By 12/31/25 if the 5-year rule applies. By 12/31/30 if the 10-year rule applies. By 12/31/34 if the special life distribution rule applies.

Obviously, there are substantial differences in these deadlines. In general, as long as an inherited IRA stays open there are substantial tax benefits to be realized.

There will be serious tax consequences if a beneficiary fails to comply with the proper RMD deadline. The beneficiary will be subject to the 50% tax for each year an excess accumulation remains in a traditional IRA. The income earned by the IRA after the deadline is no longer non-taxable. Such income becomes taxable.

The IRS will certainly be furnishing guidance on this situation. It is unknown how soon the IRS will furnish this guidance. We expect the governing RMD regulation will be revised to set forth the changes made by the SECURE Act. We expect the IRS will state its position on this situation in the 2020 version of Publication 590-B (IRA Distributions).

Code section 401(a)(9) sets forth the RMD laws. There are RMDs rules applying to an IRA owner while that person is alive. There are RMD rules applying to the beneficiaries of an IRA owner after he or she dies. The statute as written authorizes and contemplates that an individual may withdraw their pension or IRA funds over the joint life expectancy of the IRA owner and a designated beneficiary. RMD calculations prior to 2002 were complicated. A person who had designated his or her estate as their beneficiary was required to use a single life expectancy divisor to determine his or her RMD while alive. After the death of the IRA owner the remaining payment period to a beneficiary was very short if the estate was the beneficiary. I don't recall how short, but it was short. I will research this situation.

The IRS rewrote its RMD regulation in 2002 with the goal to simplify the RMD rules for taxpayers, but also for the IRS. I believe this was accomplished. In general, the IRS adopted taxpayer friendly rules.

For living IRA owners the 2001 RMD regulation authorized all IRA owners to use the Uniform Lifetime table in calculating their annual RMD regardless of whom or what was their designated beneficiary. The Uniform Lifetime table actually is a joint life expectancy table where there is an assumed beneficiary who is 10 years younger than the IRA owner. An IRA owner who had designated their spouse as their 100% primary beneficiary and such spouse was more than 10 years younger than the IRA owner, then that person is to use a Joint Life Expectancy Table rather than the Uniform Lifetime table. The statute does not define how a person's RMD is to be calculated. This was left up to the IRS to define the RMD amount by regulation. While alive the regulation defines a person's RMD for a given year as the balance as of the preceding December 31

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RMD Beneficiary Rule,
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divided by a certain factor or divisor which is determined by a person's age and use of the Uniform Life Time Table. Under this approach it made no difference who, what or if there was a designated beneficiary. The SECURE Act changed the RMD rules for living IRA owners by changing the RMD age to age 72 from 70½. Otherwise there were no changes in the RMD rules for living IRA owners.

After the IRA owner died, the RMD regulation set forth detailed rules to apply to a beneficiary. The attached chart summarizes these rules. In the case of a traditional IRA, SEP-IRA or SIMPLE-IRA the rules to be applied depended on if the IRA died before or after their required beginning date. Most beneficiaries had the right to use the life distribution rule. However, a non-individual beneficiary had to use the 5-year rule if the IRA owner died before their required beginning date and a special life distribution rule if the IRA died after their required beginning date. The calculation was, determine the initial divisor from the Single Life Table based on the age of the IRA owner in the year he or she died. To determine the divisor for the beneficiary for subsequent years, subtract 1.0 for each subsequent year. See the attach chart summarizing these rules.

It is this special life distribution rule which is the source of contention. Is this special life distribution calculation to be used when the IRA owner dies in 2020 or later? Other IRA firms argue that the passage of the SECURE Act did not change this rule. The SECURE Act changed the rules for beneficiaries who are living individuals, but not for a beneficiary who is not an individual such as an estate. Therefore, these other firms apparently argue that since there is no express new statutory provision for this situation that the old rule set forth in the regulation continues to apply. I have serious doubts. The design of the law in the past has been, the distribution period for a beneficiary who is not an individual is shorter than the distribution period which applies to a beneficiary who is an individual.

The SECURE Act is clear that a non-spouse beneficiary of an IRA owner who dies in 2020 or later and who is a living person and who is not an EDB must use the 10-year rule to close the inherited IRA. Such an individual is ineligible to use the life distribution rule regardless of how old the IRA owner is when he or she dies.

The SECURE Act does not expressly address the rule applying to a non-spouse beneficiary who is not a living person such as an estate, charity or a trust which is not an EDB.

Note that this special life distribution rule was created by the RMD regulation and not by the text set forth in Code section 401(a)(9)(A). Most certainly the IRS will change or amend the RMD regulation to set forth the new rules.

For the following reasons, I believe the IRS will make clear in future guidance that the 5-year rule applies when an estate is the beneficiary and not the special life distribution rule or the 10-year rule.

1. The law has changed. The only beneficiaries allowed to use the life distribution rule in 2020 are EDBs. See Code section 401(a)(9)(H)(ii) and 401(a)(9)(B)(iii). Certain trusts may be an EDB, but never an estate.
2. Code section 401(a)(9)(H)(i) provides that the 10-year rule does not apply to a beneficiary who is not a living beneficiary. This provision does not somehow grandfather in an estate so that the estate gets to continue the old life distribution rule. If the 10-year rule does not apply, then the existing law continues to apply. This the 5-year rule and not the special life distribution rule.
3. Clearly the intent of the SECURE was to require faster distributions to most beneficiaries, not slower. I don't believe the law has been written to provide greater tax benefits to a non-living beneficiary versus a living beneficiary.

In summary, I believe the 5-year rule applies. A beneficiary who fails to close the inherited IRA under the 5-year rule will have adverse tax consequences.

IRS guidance is that it is the IRA beneficiary who has the primary duty to comply with these beneficiary RMD tax rules. It is not the task fo the IRA custodian/trustee. At times the beneficiary will need to consult with thier tax adviser.

The IRS will need to issue its guidance on the SECURE Act's impact on IRA beneficiaries.

Until the IRS issues guidance on this situation, we will be adding a note to our Form 206 and Form 206R explaining this tax issue and that a person in this situation must consult with their tax adviser. We suggest an IRA custodian inform such a beneficiary of this issue and that they will need to provide a tax opinion letter if they believe they are entitled to use the special life distribution rule and will hold the IRA custodian harmless if the IRS should assess any tax penalties.

Email Guidance – Direct Payments From an IRA to a 401(k) Plan

Q1. ABC Bank has an IRA customer who has requested a direct rollover to a qualified plan, and she has already done a direct rollover to this same qualified plan from this IRA in April of this year. Can she do another rollover this year from this same IRA? She also has another IRA at ABC Bank, it would be okay for her to do a rollover since she has not done one from this IRA account this year?

A1. Yes, she can do a rollover form her IRA with ABC Bank to another IRA as long as she complies with the once per year rule, 60-day rule, etc. and you indicate she does. This is true even if she is doing a second direct payment to a 401(k) plan from the same IRA.

The IRS has issued guidance that the once per year rules applies only to IRA to IRA rollovers and it does not apply to IRA to 401(k) direct payments.

A direct payment is – an IRA custodian sends IRA funds directly to a 401(k) administrator for the person's benefit. For tax purposes, including IRS reporting tasks, there is a deemed distribution and then a rollover and the person must explain on their tax return.

The IRS defines a direct payment as moving funds from an IRA to a 401(k) plan. It is not a direct rollover. The IRS guidance is confusing. By definition a direct rollover only occurs when funds move from a 401(k) plan to an IRA. A direct rollover cannot occur between two IRAs or from an IRA to a 401(k). Normally we think of reason code G being used to report a direct rollover from a 401(k) plan. However, the IRS instructs that a direct payment is to be reported by using reason code G for form 1099-R purposes. Reason code G is used to report both direct rollovers and direct payments.

Email Guidance – A Person's Form 5498 Has Been Wrong Due to Incorrect SSN

Q-1. I have an IRA customer who we have been reporting the social security number incorrectly since the account was opened in 2011. It is a traditional IRA and the customer is only making contributions, there have been no distributions. Do we need to send out any corrected documents, 5498, status reports, etc to the IRS or can we change the social security number and go forward reporting it correctly?

A1. Technically, the bank should prepare corrected 5498 forms for the customer for 2017, 2018, and 2019. The incorrect 5498 forms (wrong social security number) would need to be corrected to show 0.00 as the contribution amount. And then new 5498 forms with the correct social security number would need to be prepared.

I suggest the 2019 Form 5498 be corrected. Again there is a two step process.

Practically, you may consider not preparing corrected forms for 2017 and 2018 unless the answer would be "yes" for one or both questions below.

Does the customer have any traditional IRAs at another IRA custodian?

Has the IRS sent a letter to your customer assessing additional taxes because the person claimed a tax deduction, but the IRS can not match it to any Form 5498 showing the contribution?

The IRS does have the authority to assess a fine of $50 for each incorrectly prepared Form 5498.

You have not discussed what the customer knows. If the customer knows, you could mention the bank will furnish a letter of explanation should the IRS furnish him or her a tax owing letter.

Email Guidance – Assisting With Non-Deductible Traditional IRA Contributions

Q1. Is there an exclusion for a traditional IRA that allows someone to make a max contribution of $7k + to an IRA if they make more than $124k a year?

I have a client fighting me on this and I'm wondering if this is possible.

A1. In order to assist, I may need additional information. I'm not sure what is meant by "exclusion."

A person's high income does not make that person ineligible to make a $7000 traditional IRA contribution. This is true even if the person's income is 10 million or more. A person's high income (MAGI) in certain situations will mean that the person is unable to claim a tax deduction for their contribution.

There are two types of income for IRA purposes. A person must have compensation (W-2 income or self-employment income) in order to be eligible to make a traditional IRA contribution. This compensation must arise from personal services. Other types of income such as interest, capital gains, or dividends does not allow a person to make an IRA contribution.

If an eligible person is an active participant in a 401(k) or other employer sponsored retirement plan and their modified adjusted gross income (MAGI) is too high, then the person loses the right to claim a tax deduction for some or all of their $7000 IRA contribution. But the person is still eligible to make the $7000 contribution. Such contribution is no-deductible. MAGI income is a person's total income. In general, it includes wages, self-employment income, interest, dividends, capital gains etc.

See the attached page(s) (399) from IRS Publication 590A for 2019. The IRS has not yet issued this publication for 2020. A person who is an active participant whose filing status is married filing jointly loses the right to claim a tax deduction if their MAGI is $123,000 or higher for 2019 or $124,000 or higher for 2020. For example, a person in 2020 who is an active participant whose filing status is married filing jointly with MAGI of $124,000 or more is eligible to contribute $7,000, but he or she is ineligible to claim any tax deduction. His or her contribution of $7000 is nondeductible.

A person does benefit by making a nondeductible IRA contribution. The IRA earnings will not be taxed until withdrawn. The bank has no special administrative duties on account of a person making a nondeductible contribution. The individual has this responsibility. Form 8606 must be prepared and filed with a person's tax return.

Note a married person in 2020 who is an active participant with MAGI of less than $104,000 is eligible to deduct the entire $7000 contribution. However, the person will only be able deduct a portion of the $7000 contribution if their MAGI is in the range of $104,000-$123,999. For example, if the MAGI is $114,000, then $3500 of the contribution would be deductible and $3500 would be nondeductible. The applicable formula is $7000 x ($124,000 - $114,000)/$20,000. A person may choose to only contribute the amount which is deductible or $3500 or the person may contribute the entire $7000.

We are biased, but we believe more banks should be reminding customers they will benefit by making a nondeductible IRA contribution.

Email Guidance – Processing 2019 SEP-IRA Contributions in September and October of 2020

Q1. We have a customer who has an auto body shop with her husband, and they offer SEP contributions for their employees. This customer is telling us that she has an extension to file her taxes, and she needs to make a 2019 contribution to her employees IRA. Can we accept that contribution at this point?

Would we have to issue a corrected 5498 form for the employee?

A1. You may accept the contribution. The business customer should in writing on a contribution form or the check indicate the contribution is for tax year 2019. This allows the customer to prepare the tax return showing the contribution was for 2019.

You may wish to inform this customer that the IRS procedure for the bank is, you report a SEP-IRA contribution on the 5498 form for the year you receive it and not

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SEP-IRA Contributions
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for the year it is designated. It is up to the customer to inform the IRS that the contribution was made for 2019. You do not correct the 2019 Form 5498.

See the IRS instructions to the individual for 2019 and 2020 for Form 5498.

A non-owner SEP-IRA participant does not claim a deduction for the employer's contribution.

A self-employed owner who is a SEP-IRA participant claims a deduction for his or her own contribution on their Form 1040 and then claims a deduction for the contributions of the other employees on Schedule C or F.

Q2. I do have a follow up questions:

If the customer claims they have filed an extension with the IRS, can we accept a prior year contribution past the deadline, on any type of IRA or HSA?

If so, would this prompt the bank to also have to file a corrected form for the customer? Except on a SEP IRA.

A2. The tax rules are different for SEP-IRA and SIMPLE-IRAs versus traditional IRA contributions, Roth IRA contributions and HSA contributions.

The tax law is – a person who has tax extension is permitted to make their SEP-IRA contribution by their tax filing deadline as extended. This is not the law for traditional IRA contributions. The law specifically states a tax extension does not change the deadline for making a traditional IRA contribution, Roth IRA contribution or HSA contribution.

Although a bank may ask to be provided a copy of the tax extension, this is not required. Whether or not the person can claim a tax deduction for their SEP-IRA contribution (2019 vs. 2020) is between the individual and the IRS.

Email Guidance – Inherited IRAs After the SECURE Act

Q1. Can you tell me because the RMDs for 2020 have been waived, I assume when we have a customer who has passed we will not have to be sure that their RMD for 2020 has been taken. Our customer passed after their beginning RMD date.

A1. You are correct. All RMDs have been waived. This is true for IRA accountholders and IRA beneficiaries. The RMD rules apply again for 2021.

Q2. I have a client with a question about a Beneficiary IRA and wanted to make sure I have the correct answer for her, if you don't mind to help me.

Jane Doe inherited her husband's IRA, as he passed on 2/10/2020. When he passed the funds ($63,081.11) were transferred into her current IRA. She has been taking RMDs for $250/month, but isn't sure if she will meet her RMD now that the funds have been added to her IRA. Do we recalculate RMD based upon her life expectancy or his life expectancy? He is one year and 10 months older than she is. Her balance after transferring his IRA to hers was 107,379.42. She has taken distributions since then, so her balance right now is 102,792.60. I have also attached a picture, at the bottom of this email to see if our calculations are correct, or is what we are doing wrong.

A2. A spouse who is 100% the primary beneficiary has the right to elect to treat their deceased spouse's IRA as their own. This transaction is generally a non-reportable transfer. His IRA was added to her IRA. When a spouse elects to treat their deceased spouse's IRA as their own ,there no longer is an inherited or beneficiary IRA.

As we know, 2020 is special or different for many reasons.

See the attached for a summary of the law changes. The main point is – all RMDs for 2020 have been waived. His RMD has been waived and hers has been waived, She is certainly free to take any amount as a distribution for 2020, but it is not an RMD. RMDs return for 2021.

A normal RMD rule is - if an IRA owner dies during a year and his or her total RMD has not been distributed, the surviving spouse will need to withdraw the remaining RMD amount. The distribution may either be withdrawn from the deceased spouse's IRA or the surviving spouse's IRA after having elected as own. The surviving spouse's Form 1099-R must reflect all payments paid to her or him. Neither the RMD for the decedent nor the surviving spouse for the death year is

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Inherited IRAs,
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recalculated. The RMD for the surviving spouse's IRA for the following year (2021) will be calculated using the combined balance as of 12/31/20. IRS instructions are not totally clear, but a distribution to the surviving spouse from the decedent's IRA is to be a reason code "4", but it is to be a "7" if made to him or her after electing as own. Both the "4" and the "7" mean the 10% additional tax is not owed if the recipient is under age 59½.

Q3. I am looking at 5498s before they are mailed out. Wife died in 2019. We opened an inherited IRA for Husband. Should the initial deposit be recorded in Box 2?

A3. No. The initial contribution is a transfer contribution and transfer contributions are not reported in either box 1 or 2.

Box 5 must be completed with the fair market value as of 12/31/19.

A 2019 Form 5498 must be prepared for the deceased wife and a Form 2019 5498 must be prepared for the husband. Because his IRA is an inherited IRA because he did not elect to treat it as his own, the title will be, John Doe as beneficiary of Jane Doe's IRA.

Q4. I have a customer that wants to name his Trust as a Beneficiary of his Regular IRA. Can you explain the negatives?

A4. Hopefully, the customer is discussing the situation with his or her tax adviser.

I personally believe as a general income tax rule it is imprudent to designate a trust as an IRA beneficiary. It is better to designate a spouse, children or grand children directly as her or his IRA beneficiary.

Trust rules and tax rules are complicated. In general, a higher marginal income tax rate will apply to distributions made to a trust versus distributions made to individuals. The additional tax liability can be substantial and this reduces the amount actually received by the beneficiaries. In general, a trust will need to withdraw the inherited IRA funds over a fewer number of years than other beneficiaries. This too can result in higher income taxes being paid.

Is this customer married? Will the spouse be a beneficiary of the trust? For tax reasons it is generally better for an IRA owner to name their spouse directly as an IRA beneficiary rather than a trust which covers the spouse. The 10-year rule discussed below does not apply to a spouse beneficiary. Tax deferral will be much longer when a person designates their spouse as their IRA beneficiary versus a child. For example, John Doe is currently age 55 is married with two children. His spouse is age 53 and his children are 28 and 25. If he would die in 2021 and he has designated his two children as his IRA beneficiary, they must close their inherited IRAs under the 10-year rule. If he would die in 2021 and he has designated his spouse as his IRA beneficiary, the spouse may elect to treat his IRA as her own and she may defer taxation until she attains age 72 when she will then be able to stretch out distributions over her life expectancy. The 10-year rule will apply at that time if the children are her beneficiaries.

The Secure Act as enacted on December 20, 2019, revised drastically the RMD rules applying to an IRA beneficiary after the IRA owner dies. A non-spouse beneficiary who is an individual and who is not an eligible designated beneficiary (EDB) must close the inherited IRA under a 10-year rule. No longer may most children or grandchildren stretch out distributions over their life expectancy. A non-spouse beneficiary who is an estate or a trust which is not an eligible designated beneficiary (EDB) must close the inherited IRA under a 5-year rule. This means the associated tax benefits end after 5 years and not 10 years. The impact on Roth IRAs is very substantial as the period of earning tax free income for the Roth IRA beneficiary is reduced from 10 years to 5 years.

A non-spouse beneficiary who is an individual and who is an eligible designated beneficiary (EDB) will have the right in most situations to use the life distribution rule. In general. a trust will qualify as an EDB only if one of the beneficiaries of the trust is disabled or chronically ill. This rule allows the EDB to stretch·out distributions over their life expectancy.

Some IRA custodians and trustees offer what is called a trusteed IRA. Upon the death of the IRA owner the IRA itself become an IRA trust which may contain restrictive distribution provisions. The IRA trust will change over to a regular trust at the end of the 5-year period unless the trust would qualify as an EDB.

Again, the customer should be talking with their tax adviser.