THE Pension Digest

May 2022
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Inflation Increases the 2023 HSA Limits

The IRS issued Notice RP-2022-24 on April 29, 2022. The IRA announced the 2023 HSA limits. These will be formally set forth in Revenue Procedure 2022-24 in Internal Revenue Bulletin 2022-20 as dated 5/16/2022. The changes are larger than in recent years because of the higher rate of inflation.

The maximum HSA contribution for 2023 is $3,850 for single HDHP coverage and $7,750 for family HDHP coverage. The HSA contribution limits for 2023 are $200 higher for single HDHP coverage and $450 higher for family HDHP coverage.

The minimum annual deductible limits for the HDHP for 2023 also change. The minimum deductible limit for single coverage for 2023 is $1,500 and the minimum deductible limit for family coverage is $3,000.

The maximum annual out-of-pocket expense limit for single HDHP coverage for 2023 increases to $7,500 from $7,050 and the out-of-pocket expense for family HDHP coverage increases to $15,000 from $14,100.

High Deductible Health Plans

HSA Maximum Contribution Limits Under Age 55

	2021	2022	2023	Change
Single HDHP	$3,600	$3,650	$3,850	+ $200
Family HDHP	$7,200	$7,300	$7,750	+ $450

HSA Maximum Contribution Limits Age 55 & Older

	2021	2022	2023	Change
Single HDHP	$4,600	$4,650	$4,850	+ $200
Family HDHP	$8,200	$8,300	$8,750	+ $450

HSA Catch-Up Contributions

	2021	2022	2023	Change
Age 55 and Older	$1,000	$1,000	$1,000	$0

High Deductible Health Plans

	Minimum Annual Deductible			Maximum Annual Out-of-Pocket Expenses		
	2021	2022	2023	2021	2022	2023
Single Coverage	$1,400	$1,400	$1,500	$7,000	$7,050	$7,500
Family Coverage	$2,800	$2,800	$3,000	$14,000	$14,100	$15,000

The IRS has Proposed Cut-backs for the Special RMD Rules for Surviving Spouse Beneficiaries

This article discusses and explains the IRS proposals to change the rules for certain spouse beneficiaries. The IRS believes the current rules provide too many tax planning benefits to some surviving spouse beneficiaries and so the IRS wants to reduce or limits those benefits. Congress in enacting the SECURE Act did not indicate that any of the laws and rules applying to spouse beneficiaries should be changed.

The proposed new restrictions are complex, but apparently believes the additional revenue to be generated is sufficient to justify the additional complexity.

There are special RMD rules for certain spouse beneficiaries. There is one set of rules if the deceased spouse died before their required beginning date and a second set of rules if the deceased spouse died on or after their required beginning date.

An RMD is never eligible to be Rolled Over. This rule applies to everyone. There was a limited exception for certain COVID-19 situations.

A non-spouse beneficiary with one exception is never eligible to rollover any distribution from an inherited IRA. A spouse beneficiary is eligible to rollover a distribution from an inherited IRA. Certain spouse beneficiaries have the right to treat their deceased spouse's IRA as their own. This election is equivalent to a non-reportable transfer. IRA RMDs can be transferred. They cannot be rolled over.

It Must Be Determined Which RMD spouse beneficiary Rule Applies. These rules are complicated.

The Surviving Spouse's Right to Elect As Own.

A surviving spouse who is the sole primary beneficiary has the right to elect to treat the deceased spouse's IRA as his or her own. Under the pre-2020 rules the surviving spouse could make the election at any time. This was/is true even if the spouse had initially elected the 5/10-year rule or the life distribution rule. A spouse beneficiary who is sole beneficiary has the right to treat their deceased spouse's IRA as his or her regardless of whether the deceased spouse died before or on/after their required beginning date.

The IRS has proposed there will now be a deadline to make the election. And if the election is not made by the deadline, the surviving spouse no longer has the right to treat the deceased spouse's IRA as their own. The surviving spouse can still take a distribution and make a rollover contribution.

The treat as own deadline. The election must be made by the later of December 31 of the year the surviving spouse beneficiary attains age 72 or December 31 of the year following the year the IRA owner dies. The following charts covers some situations:

Year Of IRA Owner's Death	Age of Deceased IRA Owner	Age of Surviving Spouse	Deadline 12/31
2022	60	60	2034
2022	62	67	2027
2022	40	40	2054
2022	55	50	2044
2022	50	50	2044
2022	65	68	2026
2022	73	71	2023
2022	75	75	2023
2022	75	79	2023
2022	80	78	2023
2022	80	84	2023
2022	89	91	2023

Note, the shortest election period for a surviving spouse will be December 31 of the year following the year their spouse died. The election period will be longer when either the deceased IRA owner or the beneficiary are younger than age 72.

Once the surviving spouse elects as own the standard IRA rules apply to the surviving spouse including the RMD rules. The RMD which was calculated for the year the IRA owner dies must be withdrawn by the surviving spouse to the extent it had not been distributed prior to the deceased spouse's death.

Note, that the election cannot be made if a trust has been named as the IRA beneficiary even if a spouse is the sole beneficiary of the trust.

Rules Applying When The IRA Owner Spouse died before their required beginning date.

RMD Spouse Beneficiary Rule #1

If the 5-year rule applies to a spouse beneficiary and the IRA owner has died before their required beginning date, there is no RMD for years 1-4, but there is an

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RMD for year 5. The spouse beneficiary may rollover any distribution which occurs in years 1-4. Any distribution prior to the 5th year is eligible to be rolled over as long as there is compliance with the standard rollover rules. Any distribution during the 5th year is ineligible to be rolled over because the entire amount is an RMD because the inherited IRA must be closed by December 31 of the 5th year.

RMD Spouse Beneficiary Rule #1A

If the 5-year rule applies to a spouse beneficiary and the IRA owner has died before their required beginning date, then in some situations the surviving spouse will have a hypothetical RMD which is ineligible to be rolled over. Any IRA balance in excess of the hypothetical is eligible to be rolled over. This is discussed below.

RMD Spouse Beneficiary Rule #2

If the 10-year rule applies to a spouse beneficiary and the IRA owner has died before their required beginning date, there is no RMD for years 1-9, but there is an RMD for year 10.

The spouse beneficiary may rollover any distribution which occurs in years 1-9. Any distribution prior to the 10th year is eligible to be rolled over as long as there is compliance with the standard rollover rules. Any distribution during the10th year is ineligible to be rolled over because the entire amount is an RMD because the inherited IRA must be closed by December 31 of the 10th year.

RMD Beneficiary Rule #2A

If the 10-year rule applies to a spouse beneficiary and the IRA owner has died before their required beginning date, then in some situations the surviving spouse will have a hypothetical RMD which is ineligible to be rolled over. Any IRA balance in excess of the hypothetical is eligible to be rolled over. This is discussed below.

RMD Beneficiary Rule #3

If the life expectancy rule applies to a spouse beneficiary who is the sole beneficiary and the IRA owner has died before their required beginning date, then the spouse is able to defer starting annual distributions over his or her life expectancy by 12/31 of the year The deceased spouse would have attained age 72. There is a special life distribution rule which is used. The divisor is to be recalculated each year using the current age of the surviving spouse.

In this situation also surviving spouse will have a hypothetical RMD which is ineligible to be rolled over. Any IRA balance in excess of the hypothetical is eligible to be rolled over. This is discussed below.

RMD Beneficiary Rule #3A

If the life expectancy rule applies to a spouse beneficiary who is not the sole beneficiary and the IRA owner has died before their required beginning date, then the spouse must commence annual distributions over his or her life expectancy by 12/31 of the year following the year the IRA owner died. The standard life distribution rule is used to calculate that RMD amount. There is no hypothetical RMD because there is an actual RMD.

Discussion of Hypothetical RMDs

There is a special rule for a spouse beneficiary of an IRA owner who died before their required beginning date and the spouse beneficiary is using either the 5-year rule or the 10-year rule.

Why this special rule? An older surviving spouse beneficiary often will elect the 5-year rule or the 10-year rule rather than treating the IRA as their own because they can defer distributions whereas if they elect as own they will be required to commence immediate distributions.

In some situations there is to be a hypothetical RMD which is ineligible to be rolled over. That is, there is an exception to general rule that distributions occurring to a spouse beneficiary in years 1-4 or 1-9 are eligible to be 100% rolled over.

There will be a hypothetical RMD only if the distribution is made to the surviving spouse in the calendar year after the year the surviving spouse attains age 72 and the rollover is made into the spouse's IRA and not an inherited IRA.

Note this special hypothetical RMD rule coordinates with the rule where a surviving spouse elects to treat the deceased spouse's IRA as his or own IRA.

What portion of such a distribution is ineligible to be rolled over?

The spouse beneficiary is considered to have a hypothetical RMD for his or her first applicable year and then for subsequent years. The first applicable year is - the later of the calendar year in which the surviving

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spouse attains age 72 or the calendar year in which the deceased IRA owner would have attained age 72.

The RMD for year 1 is - the calculated RMD using the standard life distribution method less any actual distributions during year 1.

The RMD for year 2 is - the sum of the calculated RMDs for year 1 and 2 less any actual distributions for years 1 and 2. However, there is an adjustment to the standard life distribution rule.

Example #1. Jane Doe died in 2021 at age 67. Her spouse (Bob) who was age 68 in 2021 elected to use the 10-year rule. Bob is not required to commence distribution by December 31, 2025 the year Bob would have attained age 72. Bob in 2026 (5 years later) wants to roll these funds into his own IRA. He is unable to rollover the entire balance. He must calculate his hypothetical RMDs, if any, for 2022, 2023, 2024 2025, and 2026. He cannot rollover his hypothetical RMD amount.

Note that Bob attains age 72 in 2025. So, his first applicable year is 2026. If he takes a distribution in years 2022-2025 he is eligible to rollover the full amount because there is no portion which is a hypothetical RMD. The hypothetical RMDs start with the year after the year Bob attains age 72. This is 2026. He is deemed to have a hypothetical RMD for 2026 and 2027. There is no hypothetical RMD for years 2022-2025 because his hypothetical RMDs commence the year after he attains age 72.

Example #2. Jake Doe died in 2022 at age 66 or he would have attained age 66 in 2022. His spouse (Barb) is his sole primary beneficiary and she attains age 65 in 2022. Barb elects to use the 10-year rule.

She is planning to take a distribution in 2031.

It is assumed the inherited IRA has a balance of $100,000 as of December 31, 2028.

It is assumed the inherited IRA has a balance of $96,000 as of December 31, 2029.

It is assumed the inherited IRA has a balance of $92,000 as of December 31, 2030.

What portion of this inherited IRA in 2022 is ineligible to be rolled over because it would be her hypothetical RMD amount?

Barb has or will reach age 74 in 2031. Jake would have reached age 75 in 2031.

Barb must calculate her hypothetical RMDs for 2029, 2030 and 2031. She attains age 72 in 2029.

Her hypothetical RMD for 2029 is $5813.95 ($100,000/17.2).

Her hypothetical RMD for 2030 is $5853.66 ($96,000/16.4).

Her hypothetical RMD for 2031 is $5897.44 ($92,000/15.6).

Her total hypothetical RMD amount $17,565.05. She is ineligible to rollover that amount.

Rules Applying to a Spouse Beneficiary When IRA Owner Dies on or after their required beginning date

There are two different life distribution rules.

First, if the spouse is the sole beneficiary, then the divisor will be determined by using the special recalculation method. This means each year the divisor is determined by using the spouse's age for that year and using the applicable factor from the Single Life Table.

Second, if the spouse is not the sole beneficiary, then the standard RMD formula will be used. The initial divisor will be determined for the first year after the year the IRA owner died by using the applicable factor from the Single Life Table by using the spouse's age. The reduce by one method will be used for subsequent years.

There is a good possibility that an additional a special life distribution rule would be used. When the deceased IRA owner is younger than the surviving spouse, then in that situation the RMD calculation uses the age of the deceased IRA owner rather than the older surviving spouse beneficiary.

Deadline to Close Any Inherited IRA

The applicable deadline is the earliest of the following dates

1. December 31 of the 10th year following the year the IRA owner died - applies to a beneficiary who is a person and who is not an EDB;

2. December 31 of the 10th year following the year the IRA beneficiary died as long as the beneficiary was an EDB as of the date of the IRA owner's death.

3. December 31 of the 10th year following the year the IRA beneficiary who is a minor attains age 21 as long as the child is not age 21 as of the date of the IRA owner's death.

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4. December 31 of the year in which the divisor for an EDB would have been less than or equal to one. Note that this deadline applies even if the EDB is older than the deceased IRA owner. This is an exception to the exception. For example the IRS owner dies at age 75 in 2022. His beneficiary is age 80. The annual RMD for the beneficiary will be determined using the age of the deceased IRA owner who is younger. The initial divisor would be 14.8 and not 11.2. The standard formula is used until the year it is required to be closed which is 12/31 of the 11th year.

Year	Divisor Based on IRA Owner	Divisor Based on Beneficiary	Divisor Used in RMD Calculation
2022	14.8	11.2	14.8
2023	13.8	10.2	13.8
2024	12.8	9.2	12.8
2025	11.8	8.2	11.8
2026	10.8	7.2	10.8
2027	9.8	6.2	9.8
2028	8.8	5.2	8.8
2029	7.8	4.2	7.8
2030	6.8	3.2	6.8
2031	5.8	2.2	5.8
2032	4.8	1.2	4.8
2033	3.8	1.0	1.0

SEPs are so Simple – Be Eagar to Seek and Accept SEP-IRA Contributions

Establishing a SEP

Who can establish a SEP?

Any employer, including self-employed individuals, can establish a SEP.

Is there a deadline to set up a SEP?

You can set up a SEP plan for a year as late as the due date (including extensions) of your business's income tax return for that year.

If I have a SEP, can I also have other retirement plans?

You can maintain both a SEP and another plan. However, unless the other plan is also a SEP, you cannot use Form 5305-SEP; you must adopt either a prototype SEP or an individually designed SEP.

Can I set up a SEP for my self-employment income if I participate in my employer's retirement plan?

Yes, you can set up a SEP for your self-employed business even if you participate in your employer's retirement plan at a second job.

Can each partner in a partnership maintain a separate SEP plan?

No, only an employer can maintain and contribute to a SEP plan for its employees. For retirement plan purposes, each partner or member of an LLC taxed as a partnership is an employee of the partnership.

Participation

Which employees are eligible to participate in my SEP plan?

Employees must be included in the SEP plan if they have:

- attained age 21;
- worked for your business in at least 3 of the last 5 years; and
- received at least $650 in 2021 and 2022;

Your plan may use less restrictive requirements, for example age 18 or three months of service, to determine which employees are eligible.

Are the eligibility requirements the same for all employees in a SEP plan, including owners?

Yes. The eligibility provisions stated in the SEP plan document must apply equally to owners and employees.

Contributions

How much can I contribute to my SEP?

The contributions you make to each employee's SEP-IRA each year cannot exceed the lesser of:

1. 25% of compensation, or
2. $61,000 for 2022 ($58,000 for 2021; $57,000 for 2020 and subject to annual cost-of-living adjustments for later years).

These limits apply to contributions you make for your employees to all defined contribution plans, which includes SEPs. Compensation up to $305,000 in 2022 ($290,000 in 2021; $285,000 in 2020 and subject to cost-of-living adjustments for later years) of an employee's compensation may be considered. If you're self-employed, use a special calculation to determine contributions for yourself.

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Contributions must be made in cash; you cannot contribute property.

If you've contributed more than the annual limits to your SEP plan, find out how to correct this mistake.

How much can I contribute if I'm self-employed?

The same limits on contributions made to employees' SEP-IRAs also apply to contributions if you are self-employed. However, special rules apply when figuring the maximum deductible contribution. See Publication 560 for details on determining the contribution amount.

Must I contribute the same percentage of salary for all participants?

Most SEPs, including the IRS model Form 5305-SEP, require you to make allocations proportional to your employees' salary/wages. This means that everyone's contribution is the same percentage of salary.

If you are self-employed, base your contribution on net profit - minus one-half of the self-employment tax - minus your SEP contribution. See IRS Publication 560 on determining the contribution amount.

If I participate in a SEP plan, can I also make tax-deductible traditional IRA contributions to my SEP-IRA?

If the SEP-IRA permits non-SEP contributions, you can make regular IRA contributions (including IRA catch-up contributions if you are age 50 and older) to your SEP-IRA, up to the maximum annual limit. However, the amount of the regular IRA contribution that you can deduct on your income tax return may be reduced or eliminated due to your participation in the SEP plan.

Must I contribute to the SEP every year?

No, you are not required to contribute every year. In years you do contribute to the SEP, the contributions must be made to the SEP-IRAs of all eligible employees.

Do I have to contribute for a participant who is no longer employed on the last day of the year?

Yes, you do, if they are otherwise eligible for a contribution. A SEP cannot have a last-day-of-the-year employment requirement. If the employee is otherwise eligible, they must share in any SEP contribution. This includes eligible employees who die or quit working before the contribution is made. If you haven't made a contribution for an eligible employee in your SEP plan, find out how you can correct this mistake.

Can I contribute to the SEP-IRA of a participant over age 72?

You must contribute for each employee eligible to participate in your SEP, even if they are over age 72. The employee must also take minimum distributions.

When must I deposit the contributions into the SEP-IRAs?

You must deposit contributions for a year by the due date (including extensions) for filing your federal income tax return for the year. If you obtain an extension for filing your tax return, you have until the end of that extension period to deposit the contribution, regardless of when you actually file the return.

How much of the SEP contributions are deductible?

The most you can deduct on your business's tax return for contributions to your employees' SEP-IRAs is the lesser of your contributions or 25% of compensation. (Compensation considered for each employee is limited and subject to annual cost-of-living adjustments). If you are self-employed and contribute to your own SEP-IRA, there is a special computation to figure the maximum deduction.

Are employer contributions taxable to employees?

No, contributions to employees' SEP-IRAs are not included in their gross income, unless they are excess contributions.

If my SEP plan fails to meet the SEP requirements, are the tax benefits for me and my employees lost?

Generally, tax benefits are lost if the SEP fails to satisfy the Internal Revenue Code requirements. However, you can retain the tax benefits if you use one of the IRS correction programs to correct the failure. In general, your correction should put employees in the position they would have been had the failure not occurred.

Reporting Requirements

Why is last year's contribution that was made this year for the SEP-IRA shown on this year's Form 5498 instead of last year's Form 5498?

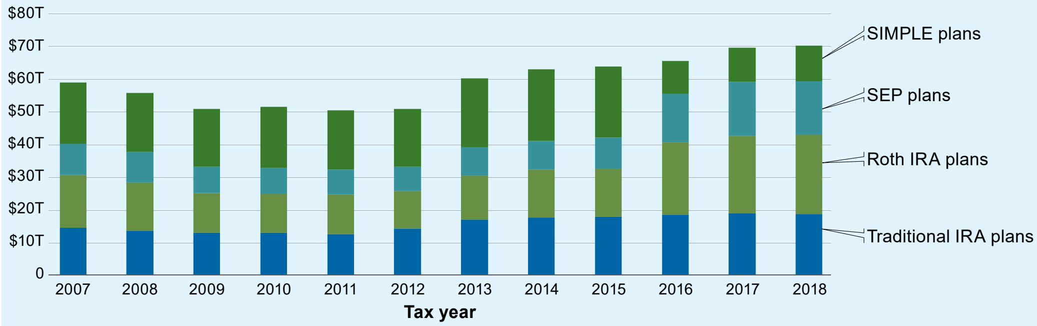
The IRS requires contributions to a SEP-IRA to be reported on the Form 5498 for the year they are actually deposited to the account, regardless of the year for which they are made.

Statistics of Income
https://www.irs.gov/statistics/soi-tax-stats-accumulation-and-distribution-of-individual-retirement-arrangements

Individual Retirement Arrangements, Tax Year 2018

This study explores the accumulation and distribution of Individual Retirement Arrangement (IRA) plans, by type. Data are based on matched samples of *U.S. Individual Income Tax Returns* (Forms 1040); *IRA Contribution Information* (Forms 5498); and *Distributions From Pensions Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.* (Form 1099-R) for Tax Year (TY) 2018.

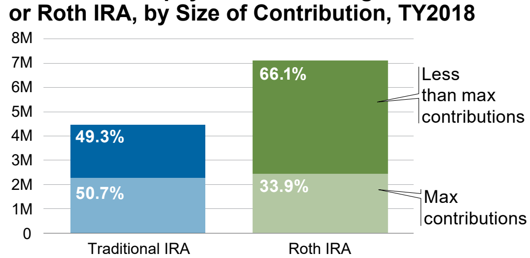
Total Contributions to Individual Retirement Arrangement (IRA) Plans, by Type of Plan, Tax Years 2007–2018



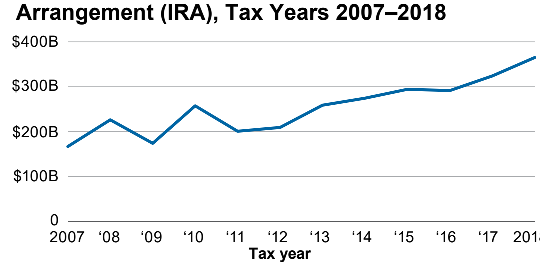
Highlights of the Data

- TY2018 saw the largest total contributions to IRA plans to date, at over $70 billion. This continued the TY2011 trend of year-over-year growth in contributions that started in the recovery of the Great Recession.
- Roth IRAs made up more than a third of all IRA-plan contributions (35 percent) and all contributing tax-payers (34.6 percent). This continued the TY2016 trend in which Roth IRAs overtook traditional IRAs in the total number of, and overtook SIMPLE IRAs as the largest share of, total contributions.
- About half of all taxpayers contributing to traditional IRAs (50.7 percent) were more likely to contribute the maximum allowable amount. Roth IRAs saw only about a third (33.9 percent) of maximum allowable contributions. Though, taxpayer elected contribution sizes remained anchored at $500 increments for both traditional and Roth IRA plans.
- TY2018 saw the largest total amount withdrawn from IRA plans to date, at $366 billion. Previously, this was set in TY2017, at $325 billion.
- The Tax Cuts and Jobs Act of 2017 (TCJA) repealed the recharacterizations of Roth Conversions. This, coupled with a lower top income tax bracket, had the effect of increasing Roth Conversions to $13.7 billion (up 37 percent) from TY2017 to TY2018, accom-panied by a 15-percent increase in the number of conversions.
- Average SEP contributions are consistently the largest across the whole of the income distribution, followed by average SIMPLE contributions for the lowest and highest income brackets. The average Fair Market Value for IRA plans is heavily skewed to higher-income percentiles, with most assets held in traditional and SEP IRAs.

Number of Taxpayers Contributing to a Traditional or Roth IRA, by Size of Contribution, TY2018



Total Withdrawls From an Individual Retirement Arrangement (IRA), Tax Years 2007–2018



Individual Tax Statistics

Publication 5498 (3–2021) Catalog Number 75484M
Department of the Treasury **Internal Revenue Service** www.irs.gov

IRS

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Special Notice on Uncertainty of Certain RMD Rules

On February 24, 2022, the IRS issued proposed regulations to implement the law changes made by the SECURE Act.for required minimum distributions. It is important for an IRA account holder and an IRA beneficiary to understand the required distribution rules because a 50% excise tax is owed when a person fails to withdraw a required distribution by the applicable deadline and a person is ineligible to rollover a required distribution. The IRS has proposed these regulations when finalized will apply for 2022. The IRS has requested the submission of public comments. These comments must be received by May 25th, 2022.

The IRS has proposed many major changes with respect to inherited IRAs. Many of these changes are discussed in this IRA Disclosure Statement. However, two of the IRS proposals are so new and because they may not ultimately be adopted ,the discussion at this time is limited. If you are an IRA beneficiary in 2022 you will need to decide if you will benefit by retaining professional guidance.

Set forth below is a very brief summary of these two proposals.

Proposal one. The IRS has proposed that a spouse beneficiary who wants to elect to treat their deceased spouse's IRA as their own must do so by a deadline or they will no longer have this right. That deadline is, the election must be made by the later of the year the surviving spouse beneficiary attains age 72 or December 31 of the year following the year their spouse died.

Proposal two. It was originally thought most general IRA beneficiaries of a deceased IRA owner were required to use the 10-year rule to close the inherited IRA. It did not matter if the IRA owner died before or after their required beginning date (age 72). Under the 10-year a beneficiary is not required to take annual distributions. The IRS has proposed that if the IRA owner died after their required beginning date then the child beneficiary must take an annual distributions and they must also close the inherited IRA within the 10-year time period.

It is proposal two which is most problematic. You as a beneficiary may have thought you had no requirement to take a distribution for 2022 because you thought the 10-year rule applied to you. But the IRS proposed regulation states the annual distribution rule applies in addition to the 10-year rule and an annual distribution for 2022 would be required.

May 25, 2022 is the Comment Deadline For Proposed RMD Regulations

The Federal Register has made it easy to submit comments regarding the proposed RMD rules. Hopefully, a sufficient number of comments will be submitted informing the IRS that some of their proposed should not be changed and some should not be adopted. The main proposed rules which should not be adopted are the proposals related to placing severe restrictions on a surviving spouse's right to elect to treat their deceased spouse's IRA as their own IRA. Changes also should be made regarding the rules applying to certain beneficiary situations.

You may submit you comments at the Federal Register site. Search for federal register and input required minimum distributions in the search box on the home page.

Upcoming IRS Deadlines for 5498 Series of Forms

	The IRS	The Individual
2021 Form 5498	May 31, 2022	May 31, 2022
2021 Form 5498-SA	May 31, 2022	May 31, 2022
2021 Form 5498-ESA	June 1, 2022	May 2, 2022

Note that an IRA custodian may not be required to furnish in May a copy of the 2021 Form 5498 to an IRA owner or beneficiary if the 2021 Form 5498 (or a substitute Form 5498) was furnished earlier in 2022.