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ALSO IN THIS ISSUE –

Collin W. Fritz and Associates, Inc.,
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New Roth IRA Rollover in 2024

In 2024 the tax laws now provide that certain individuals with unused funds in a qualified tuition program (section 529) may rollover a certain sum each year into their Roth IRA on a tax-free basis. This can be very beneficial.

Section 126 of SECURE 2.0 authorizes a new trustee-to-trustee transfer/rollover into a Roth IRA. It is effective for distributions occurring after December 31, 2023.

The general tax rule is - any distribution from a qualified tuition program is included in the gross income of the distributee unless there is another law saying it is not to be included.

There is a new law which provides that a participant of a qualified tuition program is able to withdraw funds from their qualified tuition account and make a roll over contribution into their Roth IRA as long as the following requirements are met. Because of the deemed rollover the withdrawn amount is not required to be included in the person's income for income tax purposes.

The requirements:

1. The Roth IRA accountholder and the designated beneficiary of the qualified tuition program must be the same person.
2. The withdrawal transaction must be performed as a direct trustee-to-trustee transfer for the benefit of the designated beneficiary. This is somewhat confusing because for income tax purposes the transaction is to be treated as a rollover. However, there is to be no actual distribution to the designated beneficiary. The funds move between the two financial institutions into a Roth IRA for the benefit of the individual.
3. The qualified tuition program must have been maintained for a 15-year period. The person is eligible to make such a rollover/transfer contribution once the 15-year period has been met.
4. Any contributions made to the qualified tuition program within the preceding 5 years and the related earnings are ineligible to be rolled over into the Roth IRA.
5. Each year the designated beneficiary of the qualified tuition program must be eligible to make a contribution to a Roth IRA. This amount is to be reduced if the individual makes a contribution to any traditional or other Roth IRA. The limit applying for 2024 is $7,000 if the individual is younger than age 50 or $8,000 if the person is age 50 or older. The amount which a person is eligible to contribute to a Roth IRA is limited based on their modified adjusted gross income. This MAGI limit does not apply (it is waived) for withdrawals of funds from a qualified tuition program.
6. On an aggregate basis the lifetime amount eligible to be rolled over to a person's Roth IRA on account of such a withdrawal from a qualified tuition program is limit to $35,000.

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Email Guidance – Inherited IRAs

Q-1. We were informed our customer passed away on 11/2/2023. He has 2 IRAs with our bank. One is a Roth IRA and another was an inherited IRA from his father who was in distribution. His wife, Ann is the beneficiary of both of these IRAs. I have attached the beneficiary forms for both IRAs that were sent to me from our main branch.

A-1. A surviving spouse of a deceased Roth IRA accountholder wants to elect to treat his Roth IRA as her own Roth IRA You may furnish her a copy of CWF form 204R, but it may confuse her more tha it will help. She should indicate on a form that she is electing to treat his Roth IRA as her own.

One would think she does not want to close it as it will earn tax-free income as long as she is alive.

A Roth IRA accountholder never has to take a distribution from their Roth IRA while alive. There will be RMD rules which would need to be complied with if she keeps it as inherited Roth IRA.

As for the second IRA more information is needed.

When did the father die? Before 2020 or after 2019?

1. If his father had died before 2020, then her deceased spouse had commenced his beneficiary RMD schedule and she will need to continue his schedule and she will need to close the account by 12/31/2033. As a practical matter she wants to take approximately 10% each year.

2. If the father had died after 2019, the deceased spouse will have commenced his 10-year beneficiary withdrawal schedule. She must close this IRA by the same deadline which applied to him. For example, if the father had died in 2021 then the deceased spouse's RMD was based on his age and it had to be closed by 12/31/2031. She must continue that schedule and the account must still be closed by 12/31/2031.How many years are left? As a practical matter she wants to take a pro-rate amount for each remaining year.

Q-1A. In regards to the Inherited IRA, we received it as an already established Inherited IRA from another custodian back in June 2016.

A-1A. A beneficiary's RMD is - the 12/31 FMV balance of preceding year divided by the divisor equals the RMD for that year. She may withdraw more than the minimum each year.

His RMD divisor for 2023 was 16.5. The divisor for subsequent years is determined by subtracting 1.0 for each year. This means his RMD divisors for the next 10 years will be:

2024 15.5
2025 14.5
2026 13.5
2027 12.5
2028 11.5
2029 10.5
2030 9.5
2031 8.5
2032 7.5
2033 1.0 all out

His RMD for 2023 has been satisfied. The amount withdrawn was much larger than the RMD.

If she should die during this period her beneficiary(ies) will need to continue his RMD schedule and close it out by 12-31-2033. Again the next beneficiary in any year can withdraw more than the RMD.

Q-2. My situation is an IRA customer died after his RMD last year. His estate was listed as his beneficiary. Is the rule for a "not a person" beneficiary, the 5-year rule for distribution to the estate?

A-2. The 5-year rule does not apply when the IRA accountholder has died after his required beginning date.

A special life distribution rule is used. Annual distributions are required. The RMD distribution schedule is based on the decedent since his estate was the beneficiary. There is no other person to base the schedule on. For example, if a person died in 2023 age 77, the divisor for 2024 is 12.3 since the divisor for some one age 77 is 13.3 and 1.0 is subtracted for each later year.

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Inherited IRAs
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What was the date of birth of the decedent?

Although the law permits a beneficiary to take annual RMDs for a period longer than 5 years, as a practical matter the personal representative probably does not want to keep the estate open for 5 years and will have a shorter distribution period.

Q-2A. In my example my customer died last year and he was 90 years old. His birthday is Dec 12, 1932.

So many variables and options for beneficiaries. I'm glad we are taking your webinars coming up for non-spouse beneficiaries and for the spouse beneficiaries.

So a follow up question to this. IF the beneficiary was a living person, would they have had the option of the 10-year rule then? And, would they HAVE to take an RMD each year following the year of death, or as long as it's gone in 10 years is sufficient. These rules are confusing to me.

A-2A. The IRS has written its proposed regulation to adopt the following positions:

1. when the IRA accountholder has died after his or her required beginning date, a non-EDB beneficiary who is a person must start taking their RMD the following year and the inherited IRA must be closed by the 12/31 of the 10th year.

2. when the IRA accountholder has died before his or her required beginning date, a non-EDB beneficiary who is a person must use the "standard" 10-year. This rule permits the beneficiary to not take any distributions for years 1-9 and to take a 100% distribution in year 10. The beneficiary is permitted to take distributions in years 1-9.

The preliminary divisor for the situation where your customer's estate is the beneficiary is 5.7 because he was 90 in 2022. The divisor for 2023 is 4.7. So, there is no 10-year period in this situation where the IRA accountholder is sufficiently old.

Q-3. The person deceased is John Doe. His date of birth 12/23/1947. He died 8/12/2023, there was a distribution taken in August 2023 which I am sure was his RMD but should have been paid to the beneficiary - his wife not from his account. Also balance of account is $12000+ . I have no information on her.

He passed away, his wife (beneficiary) wants to keep as an inherited IRA. We will need to complete form CWF 40TI (it says 5305-A on the form). Anything else?

A-3. I don't really understand the fact situation. More info is needed.

What is your question(s)? My initial question was what form to use to establish an Inherited IRA for a surviving spouse (who was also the beneficiary) of an existing IRA and if anything besides the form was needed.

When was his IRA established? It was "transferred" to our bank in December of 2021

Was the 2023 RMD withdrawn from the IRA in August or not? Yes, 4 days before his death. To whom was it paid? Edward, who was still living.

How old is she? 83 What is her date of birth? 05-03-40

She may keep the IRA as an inherited IRA, but many times things will be easier (for her and the bank) if she treats his IRA as her IRA. She came into bank requesting inherited, but I don't know that she cares if you feel something else is easier.

Who does she want her beneficiary(ies) to be? Her 2 daughter's 50/50 which I do have their information on.

A-3A. I believe a spouse who is older than age 59½ will generally want to treat their deceased spouse's IRA as their own IRA.

I think the easiest thing is for her to open a new IRA on a Form 40-T and she will designated her 2 daughters as her beneficiaries. I presume she will want to elect the per stirpes beneficiary option (#2).

He withdrew the 2023 RMD prior to his death. So the 2023 RMD has been satisfied.

She will need to take an RMD for 2024 by December 31, 2024. The 2024 RMD will be less if she elects to treat his IRA as her own rather than if she decides to

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Inherited IRAs,
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keep it as an inherited IRA. If she elects as her own, then the RMD divisor is based on the Uniform Table which is a joint table. If she keeps the IRA as an inherited IRA, then the RMD divisor comes from the single table and because it will be smaller, this means her 2024 RMD amount will be larger. Many older individuals wish to have their distribution be the smallest amount.

Q-4. Can you please confirm that an account owner of an Inherited IRA has 10 years to deplete the account, they do not have to take annual RMDs?

A-4. More information is needed.

Did the IRA accountholder die after their required beginning date? If so, the IRS position is that the beneficiary must take annual distributions starting the year after the year of death and the beneficiary must close the inherited IRA in year 10.

The ability of a beneficiary to not take any distribution during years 1-9 applies only when the IRA accountholder has died BEFORE his or her required beginning date.

I would agree that the statutory law (SECURE Act) does not expressly support the IRS position of what rules apply when the person has died AFTER their required beginning date. But in the past the approach of the IRA rules was - a beneficiary was to continue the distribution schedule in effect by the IRA accountholder but modifying it to be based on the LE of the beneficiary since the IRA accountholder has died.

The IRS has granted relief with respect to years 2021-2023 if certain beneficiaries failed to take an RMD for these years. The IRS issued Notice 2023-54 on July 14, 2023. It had issued Notice 2022-53 on October 6, 2022. The IRS has stated that the IRS will not collect the tax owing.

A beneficiary will be required to take an RMD for 2024 unless the IRS furnishes additional relief.

Q-5. We have a customer that has a Beneficiary IRA that was opened in 2020, she has not taken any distributions so far. Does she need to start taking a RMD this year?

We were unsure if there has been a final decision by the IRS if customers have to take RMDs from Beneficiary IRAs.

A-5. The IRS has furnished guidance that the IRS will not assess the beneficiary the RMD penalty tax if the beneficiary does not withdraw her RMD for 2021, 2022 or 2023.

This tax relief does not apply to all IRA beneficiaries. It only applies if the IRA accountholder had died after her or his required beginning date.

The IRS has not yet adopted its final revised RMD regulation. My guess is that the IRS will not extend it for 2024.

The general rule is- a person has a duty to take any missed RMD out the following year. I don't believe the IRS has discussed this situation rule. It is unclear if the amounts not withdrawn for 2021-2023 would need to be withdrawn in 2024. Hopefully the IRS will provide guidance on this situation.

If the IRA accountholder of your beneficiary had died before his or her required beginning date, then if a non-EDB, the standard flexible 10-year rule would apply so there would have been no RMD for 2021-2023.

Q-6. We were custodian for a client who had a trust, an IRA, and an Inherited IRA from his brother. He passed away and we need to distribute and close these accounts. The beneficiaries are 2 individuals and 5 charities.

Am I correct, that we need to open a new account (IRA#40-TI) and transfer lnh. IRA funds (#56-lnh.) & if Oregon then (IRA#57-OR) for the 2 individuals? My question is, do the charities need to go through that same exercise? Or, because they do not have tax consequences, can we simply distribute the IRA's directly to them?

A-6. An IRA trustee must prepare the Form 1099-R for any person or entity which receives an IRA distribution. This requirement applies even if the recipient is a charity.

The CIP rules must be met for each beneficiary.

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Inherited IRAs,
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The Form 1099-R is prepared on a per plan agreement basis. The reason code would be "4" for death in box 7. There would need to be at least two Form 1099-Rs prepared. Each charity must handle its own tax return requirements.

The two individuals will each have two different inherited IRAs. Two Form 40-TI should be created. You can skip this step if the two individuals will be taking a lump sum distribution.

What do the two individuals wish to do? Transfer the inherited funds to another IRA custodian/trustee or take lump sum distributions? Two Form 56i forms should be used if they wish to transfer. Yes, the 2 individuals will be transferring to another IRA custodian/trustee. The charities will be taking a lump sum.

In general, a beneficiary cannot take a distribution and then do a rollover. The funds would normally be need to be included in income and taxes paid.

You may want to know the following information:

Are these two individuals non-EDBs? Yes

What was the date of birth of the IRA accountholder who had died? DOB=:7/4/1943

What was the date of birth and death birth of the deceased brother of the deceased IRA accountholder? DOB=2/26/1947, DOD=i/5/20I5

What are the dates of birth of the two individuals? DOB=6/29/1959 & DOB=S/7/1961

6-A. An IRA trustee may pay a charity directly from the deceased owner's IRA and inherited IRA. A form 1099-R will need to be issued to the charity,

The charity must satisfy the CIP rules and the charity should sign an IRA distribution form.

How will the 1099-R form be generated? The bank needs to decide how this task will be performed, Many banks will set up an inherited IRA on its IT system so that a form 1099-R will be prepared for the charity. Alternatively, if the bank has a way to create the form 1099-R another way, that other way may be used.

Preparing the Form 1099-R When a Trust is the IRA Beneficiary and the IRA Funds Are Passed Through to a Beneficiary of the Trust

IRS guidance on this situation should be improved. However, until such guidance is furnished the conservative approach is to issue the Form 1099-R to the trust and not to a beneficiary even though such IRA funds are passed through to the beneficiary. This is what the current IRS instructions for Form 1099-R seem to indicate. The trust will be required to report any pass through distribution on each recipient's K-1 schedule.

There are now two situations where a trust holding IRA funds may pass these IRA funds through to a beneficiary.

The first situation is, the trust is a simple trust which requires all of the trust's current income to be distributed. The IRS instructions require that the form 1099-R is furnished to the trust and the trust must prepare the a K-1 schedule for each recipient beneficiary.

The second and new situation is - the trust is a see-through trust for RMD purposes.

A trust which is a see through trust will determine the applicable RMD period by looking to each beneficiary and not the trust for determining the RMD rules which apply. For example, the beneficiary's age will be used and not the age of the oldest beneficiary of the trust. Until the IRS furnishes additional guidance, the Form 1099-R is to be furnished to trust and the trust will be required to report any pass through distribution on each recipient's K-1 schedule.

New Roth Rollover,
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Additional duties to be performed by the two Financial Institutions and the Designated Beneficiary:

The administrator of the qualified tuition program must provide a report of this special distribution/transfer/rollover to the Roth IRA trustee. The IRS (US Treasury) will need to instruct how and when such report is to be prepared and filed. This report may include information regarding contributions, distributions and earnings as the IRS instructs.

It is possible that the IRS will decide that there is no need to report such a transaction on the Forms 1099-R and Form 5498. However, this transaction is similar to moving funds in an IRA into an HSA. There is special reporting for the two financial institutions and the individual. The HSA owner must explain the tax consequences on his or her tax return.

The IRS must furnish additional guidance. Presumably, the IRS will when it finalizes the various tax reporting forms for 2024.

Email Guidance – Roth IRA Conversion

Q-1. I have a customer who is 72 years old and would like to rollover a Traditional IRA held by another institution to a Roth IRA at our institution. I told her to check with her accountant to see if they would recommend that she do that. In the meantime, I want to get my ducks in a row. Please let me know if I have this correct:

Since she is over 59½ I will need to make sure that a "7" is reported on her tax form She will have to pay tax on the Traditional IRA She will not be able to have tax-free withdrawals from the Roth for 5 years

Another question: will she pay the tax on the Traditional IRA at the lime of the rollover or when she files her taxes?

Let me know if there are any important points that I have left out. I've never done a conversion before!

A-1. I understand that the traditional IRA funds will be sent by the current IRA custodian to go into a Roth IRA at ABC. A conversion may be done by rollover or transfer, but it must always be reported to the IRS by completing the Form 1099-R.

The current IRA custodian will prepare the Form 1099-R with box 7 completed. She will include this amount in their income for 2023 and pay the appropriate income tax. Her deadline is her tax filing deadline of April 15, 2024.

ABC will report this conversion contribution in box 3 of her 2023 5498 form for the Roth IRA.

I understand that the funds are not being transferred from a traditional IRA with the current IRA custodian to a traditional IRA at ABC and then ABC would convert the funds o a Roth IRA. If that approach was taken, then ABC would prepare the Form 1099-R.

The 5-year rule does not apply when basis is withdrawn. The 5-year rule is concerned with whether the income will be taxed when withdrawn or it will not be taxed.

The tax rules permit a person over age 59½ to withdraw basis at any time without any tax consequences. Any withdrawal of basis is not taxed. She is able to withdraw the conversion amount immediately from her Roth IRA because she either has or will be paying tax on the conversion transaction.

Has she ever had a Roth IRA? I assume not, but that would change the discussion somewhat.

Once she has met the 5-year rule, any income earned within and by the Roth IRA will be tax-free when withdrawn. Any income withdrawn before the 5-year rule has been met will be taxable.

Email Guidance – A QCD's Impact on RMDs

Q-1. I have a customer who is 73 years old. He has Traditional IRAs, an Inherited IRA and a SEP-IRA, all having an RMD for 2023 Can he make a QCD from all of these accounts? Can the QCD for the Traditional IRAs and the SEP be combined to come from only one account or does the SEP need to be separate? I know the Inherited would be separate. The total is about $10,000. $6,000 is SEP and $1,000 is Inherited. Can I use one CWF distribution form for a combined total QCD or three forms, one for each type IRA?

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QCD's Impact on RMDs
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A-1. Your situation/question is very interesting and I don't believe the IRS has addressed it in writing.

QCD's have the rule where there is the annual limit of $100,000 per person (IRA accountholder and/or IRA beneficiary).

A person must be age 70½ or older to make a QCD. A beneficiary who is age 70½ or older is eligible to make a QCD.

A QCD may be used to satisfy a person's RMD requirement(s).

Like-kind IRAs may be aggregated in applying the RMD rules. The traditional IRA and the SEP IRA may be aggregated for RMD purposes.

An inherited IRA is not like-kind with respect to the traditional IRA or the SEP IRA for RMD purposes.

Is the person able to make a QCD for $17,000 from the inherited IRA and then his RMD with respect to all three IRAs will be considered satisfied or is he required to make a QCD of $1,000 from the inherited IRA and then make a QCD of $16,000 from the traditional IRA and/or the SEP IRA?

Is there a like-kind rule which applies when making a QCD?

He would make a QCD of $1,000 from the inherited IRA and then make a QCD of $16,000 from the traditional IRA and/or the SEP IRA.

The conservative approach is that there is.

However, I believe there is a strong argument that a person who makes a sufficient QCD from his inherited is able to satisfy his RMDs with respect to his traditional IRA and his SEP IRA.

Your customer should rely on his or her tax adviser.

I believe a beneficiary many times will want to make the QCD from an inherited IRA.

Email Guidance – SIMPLE-IRA Eligibility

Q-1. 1. Based on the reasonably expected to earn language, what if they actually do earn $5,000 when they weren't expected to?

2. I have a country club for a client that has a SIMPLE-IRA. They want to limit the part-time summer help's ability to participate. All I can see is to require them to have earned $5,000 in previous years. Thoughts?

3. Is there an age requirement?

A-1. There is no age requirement for a SIMPLE IRA plan.

There is a current year requirement and a requirement for prior years.

An employee should be informed prior to the upcoming year whether he or she is eligible to make elective deferrals and how the employer's contribution will be determined.

The fact that someone not expected to have $5,000 of compensation actually does have more than $5,000 of compensation does not change the requirement for the current year. The person remains ineligible.

An employer should be able to support its belief or determination that an employee will not have the required amount of compensation. The more facts to support the employer's position the better. Not having earned $5,000 or more in any preceding year is a strong indicator that the person if the job has not changed will again earn less than $5,000.

However, if someone has earned at least $5,000 in the preceding two years, there must be some reason or explanation that the person will not be earning $5,000 for the upcoming year.

Are IRA Amendments Required For 2023-2024?

The governing IRA regulation requires an IRA custodian/trustee to furnish an IRA amendment when the IRA plan agreement provisions are changed or when one or more of the topics discussed in the IRA disclosure statement is no longer correct and it needs to be revised or amended to set forth a current and correct explanation. Regulation 1.408-6(4)(ii)(C) requires that an IRA amendment be furnished no later than the 30th day after the amendment is adopted or becomes effective.

A cardinal rule of IRA and pension law is, the terms of the IRA plan agreement control and in order for a person to benefit from a law change the plan document must be revised to set forth the new law. Individuals have the right to be informed and understand current laws and the particulars of the specific IRA plan agreement. Many individuals and possibly many IRA custodians might wish the law to be, since federal tax law authorizes a certain tax benefit, then a person should be able to realize a tax benefit regardless of what the IRA plan agreement provides. The law does not adopt this approach. For example, in order for a person age 74 to make an IRA contribution in 2022 or subsequent years to his or her traditional IRA or Roth IRA, the IRA plan agreement must be revised to authorize the person to make such a contribution.

The IRS in Notice 2022-23 has extended the amendment deadline for IRAs from December 31, 2022 to December 31, 2025. A user of IRS Model forms is permitted to continue to use these forms until revised by the IRS. The IRS has not explained why it is not able to follow its own regulation. The IRS probably should revise its regulation but for whatever reason chooses not to do so. The IRS many times will issue less formal guidance.

A long time ago (1986/1987) the IRS acknowledged that there are times that even though the IRA plan agreement has not been changed, a disclosure statement amendment must still be furnished. The IRS stated there needed to be a disclosure statement amendment discussing or explaining the deductible/nondeductible rules.

There have certainly been important IRA changes affecting 2023 and 2024 of which an IRA accountholder or an IRA beneficiary should be informed. The maximum IRA contribution limit for a person whose filing status is single or head of household was $6,000 for 2022, is $6,500 for 2023 and will be $7,000 for 2024. The maximum IRA contribution limit for a person whose filing status is married filing jointly was $7,000 for 2022, is $7,500 for 2023 and will be $8,000 for 2024. The income limits applying to a person being able to claim a tax deduction for their contribution to a traditional IRA have increased substantially because of the high rate of inflation the last few years. The income limits applying to a person being eligible to make a Roth IRA contribution have increased substantially because of the high rate of inflation the last few years. An individual who takes a distribution prior to age 59½ does not owe the 10% additional tax as long as the distribution is on account of a terminal illness, domestic abuse, or fiscal emergency. The rules applying to disaster situations changed substantially with respect to both distributions and contributions.

Each institution must make its own determination because one needs to understand when was the IRA agreement last amended and how is it being amended. A primary question is, "when is the last time the financial institution furnished an amendment?" What do the current IRA plan agreements provide? Are there some IRAs set up with one certain plan agreement and others with a different plan agreement?

In summary, answering a question whether or not an amendment is required is not simple. Each financial institution will need to make its own decision to furnish one or both amendments.

It is true that the IRS has not been very active in auditing whether or not IRA custodian/trustees are furnishing IRA amendments as required by the IRA regulation. We at CWF believe it is in the best interest of a financial institution to furnish the amendments. The governing IRA regulation provides that a $50 fine may be assessed an institution for each time it fails to furnish the IRA plan agreement and $50 each time it fails to furnish the IRA disclosure amendment.