September 2024
Published Since 1984

The Pension Digest

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"The Pension Specialists "

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New Deadline For A Surviving Spouse To Elect To Treat The Deceased Spouse's IRA As Her Or His Own

The rule has always between that a spouse who is the sole beneficiary of his or her deceased spouse's IRA has the right at any time to elect to treat his or her deceased spouse's IRA as his or her own IRA. An inherited exists for a surviving spouse until she or he elects to treat it as his or her own IRA.

Under the 2024 final RMD regulation the IRS has modified this rule for the situation when the deceased IRA accountholder dies before his or her required beginning date by stating that there is no deadline to make the election, but a surviving spouse must withdraw the cumulative hypothetical RMDs prior to the election. The hypothetical RMD amount is ineligible to be elected as own. As indicated below, a surviving spouse does have a deadline. The surviving spouse must make the election by December 31 of the ninth year following the year the deceased IRA accountholder died.

Under the 2022 proposed regulation the IRS had proposed an absolute deadline. A.spouse was unable to make the election if she or he missed this deadline. The spouse could still take a distribution and roll it over. The absolute deadline was the later of: (1) December 31 of the calendar year in which the surviving spouse reaches age 73 or (2) December 31 of the calendar year following the year the deceased spouse died.

Example to Illustrate Why the IRS Has Imposed This New Limiting Rule.

Mary Smith is age 75 and she is subject to the RMD rules for her own traditional IRA. Her spouse, Adam Smith died in July of 2024. His date of birth was 3/10/1954. He died at age 70 before his required beginning date. Mary is the sole beneficiary so she has the right to elect to treat his IRA as her own IRA. As an eligible designated beneficiary (EDB) she may initially elect to use the 10-year rule. She is not required to withdraw any funds for 2025-2033 if she is willing to take a total distribution in 2034 (the 10th year) or, she may elect this IRA to be her own IRA in 2034. The IRS believes this 9 year deferral period is too beneficial to a surviving spouse and so the IRS has created this special rule creating hypothetical RMDs.

The total amount in the IRA in 2034 is defined to be an RMD so the surviving spouse is unable to elect it as her own in 2034. The practical effect is, the deadline to make the election is December 31, 2033.

This special rule applies only if the surviving spouse is using the 10-year rule. There are no hypothetical RMDs if the spouse is required to use the 5-year rule.

SECURE Act 2.0 added a new rule. A surviving spouse is able to elect for purposes of calculating his or her RMD that he or she is to be treated as the IRA accountholder rather than a beneficiary. This means the Uniform Lifetime Table is used to determine the RMD divisor rather than the Single Life Table. This results in a smaller RMD.

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CWF's IRA/HSA Guidance - Two Texas Courts Stayed The DOL's Final Fiduciary Regulations And Certain Prohibited Transaction Class Exemptions.

The DOL adopted its new fiduciary rules on April 25, 2024. These new rules were to be effective September 23, 2024.

Many financial institutions are and have been in a quandary as to how and if it needs to revise its procedures to comply with the DOL's new rules. This perplexity still exists. However, because of the recent actions of two federal court judges a financial institution no longer has the immediate pressure of having to implement new procedures to comply with the DOL's new rules. No longer must an institution have that annual retrospective review of rollovers and transfers and have a senior office sign off on the results of that retrospective review. Auditors will have to be reasonable.

In our June newsletter we discussed the filing of two lawsuits against the DOL. The two cases are: American Council of Life Insurers v. DOL and Federation of Americans For Consumer Choice, et al., v. DOL. The cases have similar legal issues, but there are some differences.

On July 25, 2024 two judges issued stays because they agreed that the plaintiff's arguments most likely will be found correct once the trials are concluded. The effective date of the DOL's regulations are stayed until further order of the court. That is, the DOL cannot try to enforce or apply the new rules. A stay is a temporary form of vacatur.

In the near future these lawsuits will be held. Most likely the DOL's new rules will be totally vacated, including PTE 2020-02. The DOL will then need to decide if it will file an appeal with the U.S. Supreme Court. Based on other recent cases, the U.S. Supreme Court will not be very receptive to the DOL's new rules.

Financial institutions and the DOL have already expended substantial amounts of time and money on this topic. More will be required now because of these two court cases. Please call or contact us if we might help. Our phone number is 1-800-346-3961. An institution may still have very good procedures with respect to rollovers and transfers without adoption of all of the DOL rules. An institution can think for itself and adopt reasonable and less costly procedures.

Full Distribution Deadline To Close An IRA of A Deceased IRA Accountholder

The purpose of the RMD changes made by the SECURE Act as enacted in December of 2019 was to reduce the period a non-spouse beneficiary was able to continue the inherited IRA. An inherited IRA continues to earn tax-deferred income and an inherited Roth IRA continues to earn tax-free income.

An inherited IRA of an IRA accountholder who died after December 31, 2019 must be distributed by December 31 (the end of the earliest calendar year) of-

1. The year containing the 10th anniversary of the IRA accounhtolder's death when the beneficiary is not an EDB.

2. The year containing the 10th anniversary of the IRA beneficiary's death when the beneficiary is an EDB.

3. The year containing the 10th anniversary of the year when the beneficiary who is an EDB and is a minor reaches the age of 21.

The SECURE Act defines a spouse and a non-spouse beneficiary of an IRA accountholder who dies prior to January 1, 2020 as an EDB.

A beneficiary of an EDB using the life distribution rule will be required to take a full distribution when the applicable RMD divisor is less than or equal to one.

The general rule is - an RMD schedule once commenced by an EDB must be continued by the EDB's beneficiary.

In summary, the law and the RMD regulation have the approach - any designated or living beneficiary who is not an EDB has 10 years in which to close the inherited IRA.

The law and the RMD regulation have the approach - any designated or living beneficiary of an EDB who was using the life distribution rule must continue such schedule and must take a full distribution under the 10-year rule.

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An IRA Beneficiary Who Is A Surviving Spouse May Have Hypothetical RMDs Which Are Ineligible To Be Rolled Over

There is a special RMD calculation for certain surviving spouse beneficiaries if the deceased IRA accountholder died before his or her required beginning date and the surviving spouse elects to use the 10-year rule and wants to roll over some or all or the IRA funds.

Example. Mary Smith is age 75 and she is subject to the RMD rules for her own traditional IRA. Her spouse, Adam Smith died in July of 2024. His date of birth was 3/10/1954. He died at age 70. He died before his required beginning date. Mary is not the sole beneficiary so she does not have the right to elect to treat her share as her own IRA. As an eligible designated beneficiary (EDB) she may initially elect to use the rule. She is not required to withdraw any funds for 2025-2033. During this period what amount is she eligible to roll over?

The special rule treats a portion of the distributions withdrawn in 2025-2033 (before the last year of the 10-year period) as an RMD if the amount is rolled over to her IRA. This rule does not apply if she rolls over the distribution into another inherited IRA. The special rule applies to a distribution occurring after the later of the year the surviving spouse reaches age 73 or the calendar year in which the deceased spouse would have attained age 73.

The special RMD is the cumulative total of the hypothetical distributions applying for a span of years assuming the spouse beneficiary is using the "uniform" life expectancy rule. However, if the spouse beneficiary actually takes distributions the hypothetical total is reduced by such actual distributions.

The effect of this special rule is to require a surviving spouse to catch up on distributions that would have been made had the spouse been taking annual distributions using the life expectancy rule. The IRS apparently believes it is unfair for a spouse to defer distributions for 9 years and not pay some taxes. The IRS uses the term catch-up amount to describe this situation.

New code section 401(a)(9)-:5g(3)(i) provides - a spouse beneficiary who is the sole beneficiary so may elect to be treated as the IRA accountholder for purposes of determining the RMD. The IRS approach in the final regulation assumes this election has been made. So, the divisor is determined by using the Uniform Lifetime Table and not the single life table.

This special rule only applies is the surviving spouse has elected to use the 10-year rule. It does not apply if the surviving spouse is required to use the 5-year rule.

Set forth below is the example the IRS has furnished in its proposed regulation explaining the calculation of the catch-up or hypothetical RMD amount.

(vii) Example. (A) Facts. Employee A is a participant in Plan X, sponsored by Employer M. A, who was born in 1957, died in 2024 (the calendar year A would have reached age 67 and accordingly before A's required beginning date), having named A's surviving spouse, B, who was born in 1958, as the sole beneficiary. The applicable age for both A and B is 73. In accordance with the terms of Plan X, B is subject to the 10-year rule. B takes a $1,000 distribution in 2031 (the calendar year in which B reaches age 73). B takes no further distributions until taking a distribution of A's remaining interest in Plan X in 2033 (the ninth calendar year following the year of A's death, when B is age 75 and A would have reached age 76). The account balance as of December 31, 2032, was $100,000, and the distribution of the remaining interest to B equals $103,000. B would like to roll over the distribution to B's own IRA to the extent the distribution does not constitute a required minimum distribution.

(B) Catch-up of required minimum distributions required. Because the distribution is made in a calendar year after B attained the applicable age and B intends to roll over the distribution to B's own IRA, this paragraph (j)(4) applies to determine the portion of the distribution that is treated as a required minimum distribution. The first applicable year (determined in accordance with paragraph (j)(4)(iv) of this section) is 2031 (the calendar year in which B reached age 73 and the seventh year after the year of A's death). Pursuant to paragraph (j)(4)(ii) of this section, the portion of the $103,000 distributed in 2033 that is not an eligible rollover distribution because it is treated as a required minimum distribution under section 401(a)(9), is the excess, if any, of the sum of the hypothetical required minimum distributions, determined in accordance with paragraph (j)(4)(iii) of this section for each calendar year beginning with the first applicable year and ending in the year of distribution over the sum of the actual distributions made in each calendar year beginning with the first applicable year and ending in the year before the year of the distribution.

(C) Calculation of hypothetical required minimum distribution. Pursuant to paragraph (j)(4)(iii) of this section, the hypothetical required minimum distribution for 2031 (the year in which B reaches age 73) is $3,773.58 ($100,000.00/26.5). For 2032 (the year in which B reaches age 74), the adjusted account balance is calculated by reducing the $100,000.00 account balance by the excess of the hypothetical required minimum distribution for the first applicable year over the actual distributions made to the surviving spouse in that calendar year, which is $2,773.58 ($3,773.58-$1,000.00). In this case, for the second determination year, the adjusted account balance is $97,226.42 ($100,000.00-$2,773.58) and the hypothetical required minimum distribution for 2032 is $3,812.80 ($97,226.42/25.5). For 2033 (the year in which B reaches age 75), the adjusted account balance is calculated by reducing the $100,000.00 account balance by the excess of the sum of the hypothetical required minimum distributions for determination years preceding 2033 of $7,586.38 ($3,773.58+$3,812.80) over the actual distributions made to

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Hypothetical IRAs
Continued from page 3

the surviving spouse during those calendar years ($1,000.00), which is $6,586.38 ($7,586.38-$1,000.00). Thus, the adjusted account balance for 2033 is $93,413.62 ($100,000.00-$6,586.38) and the hypothetical required minimum distribution for 2033 is $3,797.30 ($93,413.62/24.6). The portion of the $103,000 distribution of the employee's remaining interest that is treated as a required minimum distribution, and thus not an eligible rollover distribution, is the excess of the sum of the hypothetical required minimum distributions for each determination year in the catch-up period, which is $11,383.68 ($3,773.58+$3,812.80+$3,797.30), over the actual distributions made during the calendar years preceding 2033 ($1,000.00), which is $10,383.68 ($11,383.68-$1,000.00). Accordingly, the portion of the $103,000 distribution that is treated as a required minimum distribution is $10,383.68.

(D) Calculation of eligible rollover distribution. Pursuant to paragraph (j)(4)(vi) of this section, the plan administrator may assume that, for purposes of section 402(f)(2)(A), a portion of the $103,000 distribution equal to $10,383.68 is not an eligible rollover distribution. However, B could choose to roll over the entire $103,000 distribution to an IRA, provided the IRA is established as a beneficiary IRA, and not as B's own IRA. In that case, in accordance with §1.408-8(d)(2)(i), the IRA would be subject to the 10-year rule that applied to the spouse under the plan (so that a distribution of the employee's entire interest would be required by 2034).

IRS Requests Public Comments On Saver's Matching Contributions IRS Notice 2024-232

Public policy is to have all US taxpayers have adequate retirement assets when it comes to their retirement years. This certainly includes low- to moderate-income tax payers.

Prior to 2027 certain taxpayers were and are eligible for a tax credit if a contribution was /is made to a 401(k) plan, a similar deferral plan or a traditional IRA or Roth IRA. Some current public policy makers have realized that many taxpayers may not be making IRA contributions because they don't owe any income taxes and therefore the credit is not inducing them to make IRA contributions. At least this savers tax credit is not benefiting as many low income or moderate taxpayers as hoped or desired.

Section 103 of the SECURE ACT 2.0 of 2022 is effective for 2027. It is not effective in 2024- 2026. Commencing in 2027 the US government will make a matching contribution into a person's traditional IRA. If a person contributes up to $2,000 to her or his IRA, then the US government will make a matching contribution of 50% , 20% or 10% of the amount contributed. The matching percentage depends upon a person's MAGI. The matching contributions phases out totally if a person who is married has MAGI of $71,000 and phases out totally if a person whose filing status is single has income of $35,500.

No longer can the contribution be to a Roth IRA. There no longer is a tax credit granted to an individual.

The IRS requests comments on the following topics.

- Eligibility for Saver's Match contributions
- How Saver's Match contributions would be claimed
- How the account receiving Saver's Match contributions would be designated
- The process for completing Saver's Match contributions
- Saver's Match recovery taxes on specified early distributions
- Reporting and disclosure for Saver's Match contributions
- Miscellaneous issues, including how Treasury and the IRS could ensure that individuals in underserved communities know how to participate and receive- the full benefits of Saver's Match contributions

For example, would an IRA custodian/trustee be required to accept these matching contributions? What consequences will a taxpayer bear if the taxpayer withdraws the matching contributions before a certain time period? What is that time period? How does one distinguish withdrawing regular IRA funds versus the matching contributions? Are the matching contributions deemed to come out first or last or pro-rata? Would the matching contributions be required to be segregated?

How and when would the US government make its matching contributions? Would it be 12-24 months after the individual makes her or his contributions.

There are many questions to be answered before this new law goes into effect. Time goes quickly. 2027 will be commencing in less than 30 months.

New Deadline, Continued from page 1

We will discussing these new rules in upcoming newsletters and webinars, including calculating the hypothetical RMDs. There are similar rules for the situation when the deceased IRA accountholder dies before his or her required beginning date by stating that a surviving spouse must withdraw the cumulative hypothetical RMDs prior to being able to make the rollover.

Understanding Roth IRAs

Facts about Roth IRAs can be very important to a financial institution trying to achieve its business goals. Roth IRA funds are long-term funds. A financial institution wants to have as customers those individuals who have Roth IRAs.

This author is biased, but I believe not as many people are making annual Roth IRA contributions and/or traditional IRAs contributions as should be. The US laws provide substantial tax benefits if a person is willing to contribute funds to a Roth IRA or a traditional IRA so the funds are available to be used for retirement.

Everyone likes or should like to have a Roth IRA because Roth IRAs have the very attractive feature that all income earned by a Roth IRA is tax-free when withdrawn or distributed to the Roth IRA accountholder. In order to gain this tax-free treatment the basic rule for a living accountholder is that she or he be age 59½ or older and have had a Roth IRA for 5 years. A beneficiary is never taxed on inherited Roth IRA funds as long as the 5-year rule is met. To determine if this 5-year rule has been met you add together the Owner's time with beneficiary's time.

There are not many situations under U.S. laws where income is not taxed annually.

Here are some important facts about Roth IRAs. Many of these facts come from information published by the IRS and from two articles written by the Investment Company Institute in 2018 and 2024.

1. There is 39.9 trillion in retirement plan assets as of 3/31/2024. 14.3 trillion are IRA funds. See the graph on page xx.

2. As of 12/31/2020 it is estimated the assets in Roth IRAs was 1.2 trillion. This compares to 7 trillion in traditional IRAs.

3. The IRS has estimated for 2020 that there were 23.6 million Roth IRAs. This compares to 50.7 million of traditional IRAs.

4. The IRS has estimated for 2020 that average balance of a Roth IRA was $52,240. This compares to $211,379 for traditional IRAs.

5. The IRS has estimated for 2020 that the average contribution to a Roth IRA was $5,047. This compares to $4,461 for a traditional IRA.

6. In recent years there are more annual contributions made to Roth IRAs versus traditional IRAs. The ICI estimated that 31.9 million households have a Roth IRA whereas 41.1 million have a traditional IRA. Almost 90% of contributions being made in recent years to a traditional IRA are made because of direct rollover from 401(k) plan and not because IRA accountholders have made annual contributions.

7. Most Roth IRA contributions are made because a person is making an annual contribution. The ICI has estimated that in 2020 77% of new Roth IRAs were from regular contributions, 11% from conversions and 7% were rollovers.

8. Roth IRA accountholders tend to be very consistent in making annual contributions Many make a contribution each year. Many make the maximum annual contribution.

9. Younger individuals make many Roth IRA contributions. More than one-third of Roth IRA accountholders are under the age of 40.

10. Rolling over funds into a Roth IRA does not happen often; but it does occur. Such funds may come from another Roth IRA. However, rollovers may come from a 401(k) or similar plan. There are two types of rollovers. A rollover of Designated Roth funds to a Roth IRA or taxable funds from a 401(k) plan or similar plan into a Roth IRA. The latter is a type of conversion.

11. The RMD rules do not apply to a Roth IRA accountholder. Consequently, the Roth IRA accountholder never has to take a distribution while alive. The RMD rules apply to non-spouse beneficiaries. A spouse beneficiary who elects to treat their deceased spouse's Roth IRA as his or her own also is not subject to RMD rules.

12. A person does not report on their tax return whether he or she made a Roth IRA contribution for a given year. A person must keep track of his or her Roth IRA contributions. A person should keep a copy of all 5498 forms they are furnished by a Roth IRA custodian/trustee. Presumably, the IRS has its computer systems and it is keeping track of every Roth IRA contribution ever made for a person.

13. Most withdrawals from a Roth IRA are not taxed. If a person has multiple Roth IRAs, the person must aggregated these Roth IRAs so that the person is considered to

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Understanding Roth IRAs,
Continued from page 5

have one Roth IRA. The law defines the order of any distributions as follows: (1) annual contributions; (2) conversion contributions and (3) earnings. Annual and conversion contribution are after tax contributions. Such funds have already been taxed and are not taxed when withdrawn. Earnings may or may not be taxed. If the distribution is qualified the earnings are not taxed ; If the distribution is non-qualified, the earnings will be taxed.

14. Few Roth IRA accountholders take withdrawals. It is unclear why this is a fact. It is prudent to not take any withdrawals. However, a Roth IRA is an excellent personal emergency account because of the tax ordering distributions rules which apply when funds are withdrawn from a Roth IRA. The law provides contributions which are not taxed are deemed withdrawn before any income is withdrawn. Income when withdrawn may or may not be taxable.

15. A person does not report on their tax return whether he or she made a Roth IRA contribution for a given year. A person must keep track of his or her Roth IRA contributions. A person should keep a copy of all 5498 forms they are furnished by a Roth IRA custodian/trustee. Presumably, the IRS has its computer systems and it is keeping track of every Roth IRA contribution ever made for a person.

16. The ICl's statements that rollovers of Roth funds were very minimal does not seem consistent with some IRS statistics on rollovers. The IRS statistics are: A There was a total of 5,659,901 individuals who rolled over funds in 2020. 700,965 were Roth IRA accountholders. This was 12.38%. the average rollover was $25,026.

17. The stock market crashed in 2022. The Dow decreased 9.% the S&P by 19.4% and Nasdaq by 33.1%. At the end of 2021 retirement plan assets totaled 39.7 trillion. Finally, as of March 31, 2024 the value of retirement plan assets had recovered to 39.9 trillion.

Many of these facts come from articles written by the Investment Company Institute in 2018 and 2024.

The articles do not discuss the topic on making transfer contributions.

18. Most Roth IRA contributions are made because a person is making an annual contribution versus a rollover contribution. The ICI estimated that in 2020 77% of new Roth IRAs were from regular contributions, 11% from conversions and 7% were rollovers.

A SIMPLE-IRA Plan May Now Offer A QSLP Match

What is a QSLP? It is a qualified student loan payment.

Employers are always looking for ways to attract younger employees. Employers now have a new "benefit" they can offer. An employer can now match within limits the amount an employee pays in making student loan payments.

The IRS issued yesterday Notice 2024-63 on the subject of an employer amending and administering its SIMPLE-IRA plan or 401(k) plan allowing an employer to match an employee's payment of a student loan just as when the employer makes a matching contribution when the employee makes an elective deferral in the 401(k) plan.

Section 110 of the SECURE 2.0 Act authorizes an employer to make these matching contributions. An employer is not required to adopt such a change. Of course there are requirements to be met. There must be procedures for confirming that an employee has paid qualifying educational loans. Technically, an employer is able to make such matching contributions for the 2024 plan year. The IRS provides interim guidance in Notice 2024-63 until it adopts the final regulations for section 110.

Notice 2024-63 is 28 pages. The IRS, of course, is primarily concerned with the requirements to be met by a 401(k) plan because of the anti-discrimination rules, the ADP and ACP tests. These discrimination rules do not apply to SIMPLE-IRA plans.

The IRS guidance on what QSLP rules apply to a SIMPLE-IRA plan is limited. The general rule is - similar rules which apply to 401(k) plans apply to SIMPLE-IRA plans. For example, a SIMPLE-IRA plan may rely on an employee's certification that he or she has made a qualified education loan payment which is a QSLP and may have other reasonable procedures. The IRS discusses one major difference. An employee's QSLPs for a year are calculated differently under a SIMPLE-IRA plan versus a 401(k) plan. This is true because a SIMPLE-IRA Plan and a 401(k) plan have different limits applying to the elective deferrals.

Continued on page 7

QSLP Match,
Continued from page 6

In this Notice the IRS asks whether additional guidance would be helpful in the application of the QSLP rules to SIMPLE-IRA plans and SIMPLE 401(k) plans. Hopefully, the IRS will provide additional guidance.

CWF will be writing a plan amendment so that an employer may add this feature to its SIMPLE-IRA plan. The most conservative approach is that it is effective for 2025.

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.

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.

Certification for Trustee-to-Trustee Transfer of Qualified Tuition Program Funds to a Roth IRA

Administrator of Qualified Tuition Program

Custodian's Name ____________________
Address ____________________
City ____________ State ___ Zip ________
Attn: ____________ Phone ________

Designated Beneficiary Information

Name ____________________
Address ____________________
____
City ____________ State ___ Zip ________
County ____________ Date of Birth ________
Home Phone ____________
SSN: ____________ Plan # ________

Purpose of Form

This form provides certification that a distribution from a qualified tuition program under section 529 is exempt from income tax, because the distribution meets the requirements of section 126 of SECURE Act 2.0 effective for distributions occurring after December 31, 2023.

Certification of Designated Beneficiary

I certify that I am an eligible individual for Roth IRA contribution purposes;
I hereby instruct the above-named custodian or administrator of my Qualified Tuition Program to send $____________ (not to exceed $7,000 or $8,000) via a direct payment to the Roth IRA custodian listed below. I understand that the check or electronic payment must be made out to the Roth IRA custodian. I accept the tax consequences for my instruction. I certify I am eligible to make this rollover contribution. I intend this transaction will not be taxable to me. I understand the IRS needs to furnish guidance regarding my tax reporting duties and those of the administrator of the qualified tuition program and the Roth IRA custodian/trustee. As of November 2023 this guidance has not been furnished.

Because of the complexity of this transaction, and the tax issues associated with it, I acknowledge that it is recommended that I discuss this transaction with my tax advisor prior to requesting this special transaction. I hereby instruct you that I do not want any withholding withheld from this special transfer distribution. I understand that the amount transferred under this special rule counts toward my allowed Roth IRA contribution amount for the year in which the special transfer distribution occurs.

I understand this Qualified Tuition Program-to-Roth IRA direct transfer is irrevocable.

Caveat: This form addresses the rules which apply for federal income tax purposes. This form does not address how such withdrawal will be treated for state income tax purposes.

Signature of
Accountholder ____________________ Date ____________

Acknowledgment and Reliance by Administrator of the Qualified Tuition Program

Per your instruction, we will distribute funds from your qualified tuition account, via direct payment, to the Roth IRA custodian/trustee listed below.

Signature of Remitting
Custodian/Trustee/Administrator ____________________ Date ____________

Certification of Roth IRA Custodian

Name ____________________ Tax ID Number ____________
Address ____________________
City ____________ State ___ Zip ________
Phone ____________ Fax ________
Contact Person ____________________

On behalf of the Designated Beneficiary listed above, we accept this Roth IRA rollover contribution.

Authorized Signature
of Roth IRA Custodian ____________________ Date ____________

IRA #56R-QTP (12/23)

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Additional Discussion — Trustee-to-Trustee Transfer from a Qualified Tuition Program to a Roth IRA

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 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 an account for the benefit of the individual.

2. 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.

3. The amount withdrawn is able to be excluded from in gross income only if there have been contributions (as adjusted for earnings) made during the 5 year period ending on the date of the withdrawal. Any amount to be deemed distributed and rolled over can not exceed this amount.

4. 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 limit is waived for a withdrawals of funds from a qualified tuition program.

5. 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.

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

IRA #56R-QTP (12/23)

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To Close an IRA, Continued from page 2

The IRS did make an important change in the final regulation versus the proposed regulation. The IRS stated it was doing so because of a number of commenters had requested this change. Under the proposed regulation Situation #2 was to apply even when the IRA beneficiary who was older than the IRA accountholder (an EDB) and would be taking RMDs calculated using the date of birth of the deceased IRA accountholder rather than the older beneficiary's date of birth.

For purposes of the full distribution requirement the 10-year period would be considered to have started based on the age of the older beneficiary. The final regulation did not adopt that approach. For the purpose of applying the total close our rule the RMD divisor for the beneficiary is based on the date of birth (age) of the IRA accountholder and not the date of birth of the beneficiary. That inherited IRA must be closed in the calendar year in which the applicable divisor as based on the IRA accountholder is less than or equal to one.

The general rule is that when an IRA accountholder has designated a beneficiary who is older than he or she is and the IRA accountholder dies, the RMD divisor for the beneficiary Is based on the date of birth (age) of the IRA accountholder because he was younger and not the date of birth of the beneficiary. This results in a smaller RMD for the beneficiary.

For example, John is the IRA accountholder and he died in 2024. His date of birth was July 15, 1960. He had designated his sister Maria as his beneficiary. She is older as she was born on March 20, 1955. Except for a special rule her initial divisor for 2025 would be 18.8 (age of 70) and the full distribution would be required in 19 years. However, she is allowed to use the RMD divisor of 22.9 (age 65). Full distribution would be required in 23 years.

There are special rules if the IRA accountholder had designated multiple beneficiaries and if the separate accounting rules do not apply.

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Qualified Charitable Distributions – Planning For QCDs In 2025

The basic planning rule is, a QCD must be made from an IRA. A QCD cannot be made from a profit sharing plan, 401(k) plan or other employer sponsored plan.

Many individuals age 70½ or older may be considering making a qualified charitable distribution (QCD) or may know they want to make a QCD. Many of the laws governing IRAs are set forth in Code section 408. Code section 408(d)(8) authorizes an IRA accountholder to make a QCD if certain rules are met. The basic rules are: the IRA custodian must make the check payable to the charity, the aggregated IRA distribution amount must be $105,000 or less, the individual IRA accountholder or beneficiary must be age 70½ or older and the individual donor must get a tax receipt from the charitable organization confirming the contribution before filing their income tax return. The IRS on November 16, 2023 issued newswire IR-2023-215 discussing QCDs.

The $100,000 limit is now annually adjusted by a cost of living factor. This 2024 limit is $105,000. The IRS will announce in October what the limit will be for 2025.

What tax benefits does a person receive when she or he makes a QCD?

The person receives two tax benefits for one transaction. This is rare under the federal income tax laws. For discussion purposes Alexa Taxpayer, age 78, has an IRA with a balance of $600,000. She has made 3 QCDs totaling $50,000 in 2024. She instructed her IRA custodian to send a check for $20,000 to Michigan State University, a check for $20,000 to her church and a check for $10,000 to the Salvation Army. Alex's RMD for 2024 is $27,273.

Her first tax benefit is, she is not required to pay taxes on the $50,000 because she excludes the $50,000 from her income.

Her second tax benefit is, she is not required to withdraw her RMD of $27,273 and include it in income and pay the applicable income tax because the IRS has ruled a person's QCD counts towards the person's RMD for that year.

Does the law authorize a 401(k) participant or a profit sharing plan participant to make a QCD?

The answer is no. A 401(k) or profit sharing participant is ineligible to make a QCD. Common sense says that the law should be changed so that a profit sharing plan participant or a 401(k) participant is eligible to make a QCD if he or she is age 70½ or older but that is not the current law. A profit sharing plan participant or 401(k) participant who wants to make a QCD must directly rollover their 401(k) funds into an IRA and then make the QCD. Remember, an RMD is ineligible to be rolled over. So, the direct rollover needs to completed by December 31, 2024 if the QCD will be made in 2025.

A 401(k) participant may make a charitable contribution under the laws set forth in Code section 170, but the tax benefits realized are more limited. If Alexa's balance in a 401(k) plan was $600,000 she would be required to withdraw her RMD of $27,273. She would include that amount in her income. If she made charitable contributions to her three charities she would be able to claim some deductions for her charitable contributions. The IRS has written Publication 526 (Charitable Contributions) The amount which a person is able to deduct is not 100%. There are various limits (15%, 30%, or 60%) which apply and which reduce the amount which can be deducted. IRS Publication 526 (Charitable Contributions) discusses charitable contributions in detail.

These two transactions - QCDs and Charitable Contributions sound a lot alike, but they are two separate and different transactions having different tax consequences. QCDs provide a much greater tax benefit than a charitable contribution which is deducted.

A new rule applies for 2020 and subsequent years. U.S. tax laws do not generally permit a person a double tax benefit. Commencing for tax years after 2019, a person age 70½ or older is allowed to make a deductible IRA contribution. Therefore, a person is not allowed to claim a deduction for his or her contribution and then also make a QCD of that amount to a qualifying charity. In Publication 590-B (IRA Distributions) the IRS furnishes an illustration of how a person's QCD amount is reduced by his or her contributions made after age 70½.

In summary, a person needs to move his or her funds in a profit sharing plan or 401(k) plan into an IRA by December 31, 2024 if the individual wishes to use those funds to make a QCD in 2025. The amount one pays in income taxes will be substantially reduced by making a QCD. To do so the funds need to be in IRA. A QCD cannot be made from funds in a 401(k) plan or other qualified plan.

Can a Donor Impose Restrictions On A QCD?

The right of an IRA grantor to make a qualified charitable distribution is a very valuable tax right. The distribution is tax-free. Internal Revenue Code section 408(d)(8)(A) provides a QCD shall not be includible in the IRA grantor's gross income as long as it does not exceed $100,000.

In 2007 the IRS issued guidance in Notice 2007-7. Without any statutory authority the IRS expanded the tax benefits of a QCD by stating in Q & A-42 that a QCD could be taken into account when determining if the RMD rules,have been satisfied.

Additional IRS guidance on QCDs has been minimal. See the discussion in Publication 590-B (IRA Distributions) and Publication 526 (Charitable Contributions).

An IRA representative has asked, to what degree, if any, does an IRA grantor have the legal right to impose a restriction with respect to the QCD they make to a qualifying charity. The restrictions are described as being general and not specific.

In order to qualify as a QCD, the entire distribution must be eligible to be deducted under section 170, but for the special QCD rules.

Under other federal tax laws, a person is eligible to claim a tax deduction on their federal income tax return even if the person has imposed certain restrictions on the gift made to a charity. Certain IRS tax rules must be met and these rules are complicated. As with the prohibited transaction rules, a person is ineligible to deduct the amount of their gift if they or a family member or a controlled business benefit from their gift. And a gift cannot be directed to benefit a specific person.

A person's restricted gift to a charity made for general or public purposes is deductible as long as it is for the charity's tax exempt purpose. Creating an endowment fund for a school or college or a department of a school or college qualifies. Contributing funds to the Red Cross for a specific disaster area will qualify or a specific program or campaign of the United Way.

Certain restrictions will not disqualify a gift to a charity from being deductible and others will. CWF believes the same concept(s) apply to QCDs, but the IRS has never stated this.

The following charities are not qualifying charities for QCD purposes: donor advised funds, private foundations and those charities providing support services for other charities. However, the law provides that certain donor advised funds are not to be treated as a donor advised fund if certain requirements are met.

Until the IRS issues additional guidance on this subject, we believe an IRA grantor is eligible to impose general restrictions on their QCD. We also believe an IRA grantor should be willing to acknowledge the law is unsettled as to when a restriction crosses the line and agree to accept responsibility if the IRS would decide that the person's distribution did not qualify as a QCD. That is, the distribution would be taxable rather than being tax-free.

See Q-44 & A-44 of Notice 2007-7 wherein the IRS indicates that the DOL's position is that a prohibited transaction does occur when a QCD is made, but it is exempted by Code section 4975(d)(9).

To Close an IRA
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1. The oldest beneficiary must die and then all beneficiaries will be subject to the 10-year rule. The ten year rule does not apply if a beneficiary other than the oldest dies.

2. If any of beneficiaries is a minor child (an EDB) who dies, then that child is deemed to not have died until the death of all the beneficiaries and in applying the age of majority requirement that does not apply until the youngest child reaches age 21.

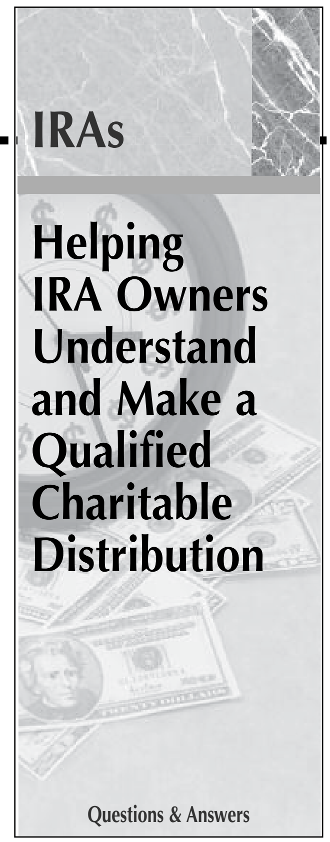
3. If the beneficiary is an applicable EDB trust, then the 10 year period commences upon the death of the last trust beneficiary to die.

All IRAs have a time when the IRA or inherited IRA must cease to exist. The purpose of the SECURE Act was to lessen the time period in which funds could remain in an inherited IRA.

Qualified Charitable Distributions (QCDs)
Helping Your IRA Customers and Your Community

Inform and help your customers understand how and why they want to make a qualified charitable distribution (QCD). The tax benefits are substantial. A QCD is tax-free and it satisfies a person's RMD. More IRA customers should be making QCDs. Local churches, colleges and other charities will benefit and your financial institution will benefit from the good will. Updated for 2024. CWF's brochure #117 explains why an eligible person is better-off if she or he makes a QCD.

September-December is the time of year for QCDs and RMDs



Brochure #117
Helping IRA Owners - Qualified Charitable Distributions (QCDs)

☐ Available in PDF format with your logo and imprint **$99**

☐ Available in PDF format **$79**

☐ Available in Print version

	Non-Imprinted	Imprinted/Logo
☐ Quantity of 50	**$34**	**$44**
☐ Quantity of 100	**$53**	**$69**
☐ Quantity of 250	**$87**	**$109**
☐ Quantity of 500	**$138**	**$163**
☐ Quantity of 1000	**$250**	**$292**
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