

How IRS Notice 2024-35 Affects Beneficiaries

[Proposed RMD regulations](#) were released in February 2022.

Under the proposed regulations, if an account owner dies on or after their required beginning date, beneficiaries who are subject to the 10-year rule must take annual life expectancy payments during the first nine years.

This applies to beneficiaries of account owners and to successor beneficiaries of eligible designated beneficiaries who died in 2020 or later.

No penalty tax

[IRS Notice 2024-35](#) states that final RMD regulations, when released, are anticipated to apply no earlier than the 2025 distribution calendar year.



- Defined contribution plans that failed to make 2024 life expectancy payments under the 10-year rule to designated beneficiaries will not be treated as failing to satisfy the RMD requirements.
- The IRS will not enforce the IRC Sec. 4974 excess accumulation penalty tax for designated beneficiaries who do not take their 2024 life expectancy payments under the 10-year rule.
- Similar guidance for 2021, 2022, and 2023 was issued in Notice 2022-53 and Notice 2023-54.

This specified relief is limited to distributions required to be made in 2024 under the proposed 10-year rule in a defined contribution plan or IRA for a designated beneficiary if

- the account owner died on or after their RBD in 2020, 2021, 2022, or 2023, and
- the designated beneficiary is not taking lifetime or life expectancy payments.

This 10-year rule relief also applies to successor beneficiaries of an eligible designated beneficiary if

- the eligible designated beneficiary died in 2020, 2021, 2022, or 2023, and
- that eligible designated beneficiary was taking lifetime or life expectancy payments.



There are still unanswered questions surrounding this guidance, including the following:

Q: Will designated beneficiaries and successor beneficiaries who do not take their 2021, 2022, or 2023 life expectancy payments be required to take those payments in the future?

A: Generally, only Congress (not the IRS) has the authority to waive RMDs. This may explain why the IRS waived the penalty tax, but stopped short of waiving the payments. Ultimately, under the circumstances, it remains to be seen if such payments will be required if the IRS maintains its interpretation of the 10-year rule. Expect this to be addressed in future guidance.

Q: Are amounts that would have been distributed to satisfy a 2021, 2022, 2023, or 2024 life expectancy payment still considered an RMD for other purposes (e.g., rollovers)?

A: If 2021, 2022, 2023, or 2024 life expectancy payments are not taken, it appears likely, given the proposed regulations, that such amounts generally would be considered RMDs for all purposes. For example, it would appear that such amounts would be ineligible for rollover. Expect this to be addressed in future guidance.

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