

# How IRS Notice 2022-53 Affects Beneficiaries

## IRS Will Not Enforce 50% Excess Accumulation Penalty Tax for Certain Beneficiaries

### Background

[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.

### Final RMD regulations won't apply any earlier than 2023

[IRS Notice 2022-53](#) states that final RMD regulations, when released, will apply no earlier than the 2023 distribution calendar year.

- Defined contribution plans that failed to make 2021 or 2022 life expectancy payments to designated beneficiaries will not be treated as failing to satisfy the RMD requirements.
- The IRS will not enforce the 50% excess accumulation penalty tax for designated beneficiaries who do not take their 2021 or 2022 life expectancy payments.

### Applies only to 2021 and 2022 distributions

This specified relief is limited to distributions required to be made in 2021 or 2022 under the new 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 or 2021, and
- the designated beneficiary is not taking life expectancy payments.

### Also applies to successor beneficiaries

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

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

## UNANSWERED QUESTIONS

- Q:** Will designated beneficiaries and successor beneficiaries who do not take their 2021 or 2022 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 or 2022 life expectancy payment still considered an RMD for other purposes (e.g., rollovers)?
- A:** If 2021 or 2022 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.
- Q:** Can beneficiaries apply a reasonable, good faith interpretation of the proposed regulations for items related to the SECURE Act for 2022?
- A:** IRS Notice 2022-53 does not specifically state that a good faith standard may be applied for 2022. Clarification from the IRS is needed to more clearly understand the standard that applies for 2022. Unless and until such clarification is received, compliance with the proposed regulations would be the most conservative decision.