

**July 24, 2023 – Wealth Planning Commentary**

## **IRS releases penalty waivers for some Inherited IRAs and IRA owners**

Last week, the IRS released two important notices, one for beneficiaries of IRAs that were inherited after 2020 and one for IRA owners who turn 72 this year.

### Beneficiaries of IRAs Inherited after 2020

This IRS notice impacts non-eligible beneficiaries who inherited an IRA after 2020 from a deceased owner who was taking RMDs. Non-eligible beneficiaries include anyone or entity except for the surviving spouse, minor child of the deceased, disabled or chronically ill individual, and any person who was less than 10 years younger than the deceased.

The IRS notice waives RMDs in 2023 for these accounts. Based on the cumulative IRS guidance, there are no penalties, current or retroactive, for keeping RMD in these accounts. If these criteria apply to you, and your custodian is prompting you to take a distribution, please reach out to your CPA or wealth manager.

If this sounds confusing, you are not alone. There are many questions surrounding inherited IRAs and whether non-eligible beneficiaries must take RMDs when the previous owner had already started distributions.

Before 2020 a rule called the 'stretch' was enforced. Beneficiaries were allowed to take distributions from inherited IRAs over their life expectancy. The rules changed in 2020 and the stretch rule was replaced with the 10-year rule for non-eligible beneficiaries. The 10-year rule is in force now and states that any IRA inherited after 2020 must be depleted by December 31<sup>st</sup> of the 10<sup>th</sup> year after the previous owner's death if beneficiary is non-eligible.

While the IRS made it clear when the account must be depleted, it did not give guidance on how it should be emptied. Should non-eligible beneficiaries take RMDs for years 1-9 under the 10-year rule? Currently, the IRS is seeking to write and enact rules for RMDs but there are none today. Without rules in place the IRS has seemingly decided to preemptively waive any penalties for not having taken RMDs during 2021-2023. The presumption is that the IRS will eventually enact RMD rules for these accounts. The agency likely wants to avoid retroactively penalizing beneficiaries who did not take RMDs in the past when and if these rules are enacted. The 10-year rule is still in effect today and these inherited IRAs must be depleted within 10 years after the owner's death.

### IRA owners who turn 72 in 2023

The second notice from the IRS stated that individuals who turned 72 in 2023 and took an RMD may return the funds back to their account. Replacing the funds is penalty-free if deposited by September 30<sup>th</sup>. This IRS notice addresses concerns that some individuals were not aware that the RMD age changed from 72 to 73 and took RMDs unnecessarily.

Please refer to the IRS note below for more details and contact your Wealth Manager with additional questions.

IRS Notice 2023-23: [irs.gov/pub/irs-drop/n-23-23.pdf](https://irs.gov/pub/irs-drop/n-23-23.pdf)

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