

## Required Minimum Distributions After Death: Non-Spouse Beneficiary

Funds in both traditional IRAs<sup>1</sup> and qualified retirement plans may not be kept inside these tax-deferred accounts indefinitely. Under federal law the money must eventually be distributed, and then taxed, through yearly "Required Minimum Distributions," or RMDs.<sup>2</sup>

The death of an account owner does not eliminate this requirement. However, the manner in which the assets must be distributed post-death will vary, depending primarily on:

- **Death before or after required beginning date:** During life, an account owner must generally begin distributions no later than April 1 of the year following the year he or she reaches age 70 ½. This is known as the "required beginning date," or RBD.<sup>3</sup>
- **Who inherits the assets:** The law mandates different required minimum distribution schedules depending on who inherits the assets in an account.

### Non-Spouse Beneficiary Required Minimum Distributions

If no named beneficiaries are the deceased owner's spouse, at minimum the funds must be distributed as shown in the following tables:

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<sup>1</sup> For required minimum distribution purposes, the term "traditional IRA" also includes SIMPLE IRAs and SEP IRAs. Roth IRAs are subject to different rules.

<sup>2</sup> This discussion concerns federal income tax law. State or local law may vary.

<sup>3</sup> The SECURE Act changed the RBD for 2020 and the years following. For any retirement account owner who did not turn 70 ½ by 12/31/2019, RMDs for IRAs do not begin until the year the owner turns 72. If the owner turned 70 ½ before 12/31/2019, they follow the same RMD rules under the previous legislation and will continue to take their RMD as scheduled. The RBD for qualified plan participants is the later of (a) the year the participant reaches age 72, or (b) the year he or she retires for anyone who turned 70½ after 12/31/2019. For those who turned 70 ½ before 12/31/2019, it is the later of (a) the year the participant reaches age 70½, or (b) the year he or she retires. More than 5% owners must begin to receive distributions by the year they reach age 70 ½ (if they turn 70 ½ before 12/31/2019), or the year they reach age 72 (if they turn 70½ after 12/31/2019). Refer to the SECURE Act legislation for clarification on the RBD.

## Owner Dies **Before** the Required Beginning Date

Situation	Distribution Requirement	Example
Individual beneficiary – owner dies before 12/31/2019	RMDs for the beneficiary must begin by the later of: (a) 12/31 of the year the owner would have turned age 70 ½ had he or she lived, or (b) 12/31 of the year after the owner dies. Distributions continue annually.	Paul dies in 2018 at age 67, leaving his IRA to his daughter Paulette, age 42. Paulette must begin to take RMDs by 12/31/21, and will continue annually.
Individual beneficiary – owner dies after 12/31/2019	RMDs for the beneficiary are not required, but the beneficiary must completely distribute all assets within 10 years.	Paul dies in 2020 at age 69, leaving his IRA to his daughter Paulette, age 44. Paulette does not have to take any distributions at scheduled intervals, but does need to completely distribute the full IRA before 10 years pass.
Non-designated beneficiary: the owner's estate, a charity, or a non-qualifying trust	The entire amount must be distributed by the end of the fifth year after the owner dies.	Paul dies on 1/1/18, at age 68, leaving his IRA to his estate. The entire IRA balance must be distributed by 12/31/23.

## Owner Dies **After** the Required Beginning Date

Situation	Distribution Requirement	Example
Individual beneficiary – owner dies before 12/31/2019	RMDs for the beneficiary must begin by 12/31 of the year after the year of death. Distributions continue annually.	Paul dies in 2018 at age 72, leaving his IRA to his daughter Paulette, age 47. Paulette must begin taking RMDs by 12/31/2019 and distributions will continue annually.
Individual beneficiary – owner dies after 12/31/2019	RMDs for the beneficiary are not required, but the beneficiary must completely distribute all assets within 10 years.	Paul dies in 2020 at age 74, leaving his IRA to his daughter Paulette, age 49. Paulette does not have to take any distributions at scheduled intervals, but does need to completely distribute the full IRA before 10 years pass.
Non-designated beneficiary: the owner's estate, a charity, or a non-qualifying trust	An RMD must be made for the deceased owner for the year of death. Thereafter, RMDs are based on the owner's theoretical life expectancy in the year of death.	Paul dies in 2018 at age 72, leaving his IRA entirely to charity. An RMD must be made for 2018 and all subsequent years based on Paul's life expectancy.

## Other Distribution Options

Funds in an inherited IRA or qualified retirement plan may also be distributed as a single lump-sum or as periodic or occasional distributions which withdraw the money at a rate faster than the RMDs required by federal tax law. However, such accelerated distributions will subject the funds to current income tax more quickly than will the RMD withdrawals.

### Post-Mortem Distribution Planning

IRAs and qualified plans allow an account owner to name a beneficiary or beneficiaries to receive the account proceeds should the owner die. From this pool of potential inheritors, IRS regulations require that the individual or group of individuals who will ultimately receive the funds, the "designated beneficiaries," be identified by September 30 of the year following the year of death.

This time delay allows for a certain amount of post-death estate and income tax planning by "removing" a potential beneficiary through either a qualified disclaimer, a cash distribution, or by dividing the IRA or qualified plan into separate accounts. Any separate accounts must generally be established by December 31 of the year following the year of the account owner's death. The life expectancies of those beneficiaries who remain on September 30 are then used to determine the RMDs for the years after death.

Entities without a measurable life span, such as the owner's estate, a charity, or a trust that does not meet certain IRS requirements, are not considered to be "designated beneficiaries" for RMD purposes. While such beneficiaries may inherit the funds in the account, distributions to these entities are generally made on less favorable terms.

### Trusts

In order for the beneficiaries of a trust to qualify as a "designated beneficiaries," the trust must meet certain requirements:

- The trust must be valid under state law;
- The trust must be irrevocable or will, under its terms, become irrevocable upon the death of the account owner;
- The beneficiaries of the trust must be identifiable from the trust document; and
- Certain documents must be provided to the plan administrator.<sup>4</sup>

Distributions to the trust are made over the theoretical life expectancy of the beneficiary. If there is more than one beneficiary, distributions are made over the theoretical life expectancy of the oldest beneficiary. If a trust does not meet these requirements, consideration should be given to reforming the trust, assigning or disclaiming an interest in the trust, cashing-out certain beneficiaries, or separating interests in the trust.

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<sup>4</sup> Generally, this must occur by October 31 of the year following the year of death. Please consult an estate attorney for the changes the SECURE Act brought to trusts as beneficiaries.

## Other Points

- **Distributions from employer-sponsored qualified plans:** Post-death payments to beneficiaries of qualified plans are typically based on the individual provisions of a particular plan. A lump-sum distribution, with its heavy, immediate taxation, is perhaps the most frequently encountered option.

## Roth IRAs

Roth IRAs do not have a lifetime distribution requirements. Because of this, a Roth IRA owner is always viewed as having died before the RBD. Post-death distributions from Roth IRAs are thus governed by the "death before RBD" rules. This means that if the Roth IRA owner passed away before 12/31/2019, beneficiaries are required to take annual RMDs. For the beneficiaries of Roth IRA owners who pass away after 12/31/2019, no annual distributions are required, but the account will need to be completely distributed within 10 years. Since there is no tax implication, the beneficiary can continue to let the assets grow for 10 years with no tax consequences.

## Seek Professional Guidance

The body of law and regulation surrounding required minimum distributions is complex and often confusing, especially after the new SECURE Act legislation. Further, the failure to correctly distribute the required amounts from an IRA or qualified plan can result in a federal excise tax of 50% of the amount that should have been distributed. Individual state or local law may also provide penalties.

The advice and guidance of qualified professionals is strongly recommended.

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