IRS SURPRISES WITH APPARENT EXPLANATION OF THE SECURE ACT 10-YEAR RULE

Wednesday, April 14, 2021, **By Ian Berger, JD, IRA Analyst, Follow Us on Twitter:@theslottreport**

Just a few weeks after the start of the baseball season, the IRS has thrown us a curveball by apparently interpreting the SECURE Act's10-year payout rule in a totally-unexpected way.

We say “apparently” because the IRS explanation isn’t very clear. And even if it was clear, the IRS offered the information in an informal publication that should not be relied on.

Here’s the backstory: One of the major changes made by the 2019 SECURE Act was the elimination of the stretch for many beneficiaries of inherited IRAs. If an IRA owner died before 2020, his individual beneficiary could satisfy the required minimum distribution (RMD) rules by spreading annual payouts over the beneficiary’s life expectancy. For a young beneficiary, that could be 80 years or longer.

But Congress put an end to the stretch IRA for most non-spouse beneficiaries of owners who died after 2019. For those beneficiaries, the SECURE Act replaced the stretch with a 10-year payment rule. That rule requires the entire IRA to be paid out by the 10th anniversary of the IRA owner’s death.

Just about everyone thought the 10-year rule meant no annual RMDs were required. In that case, the beneficiary would have total flexibility: She could take out as much or as little from the inherited IRA in years 1-9, as long as she emptied the entire account by year 10.

That’s exactly how the IRS has interpreted the 5-year payout rule. Before the SECURE Act, the 5-year rule was a payment option for the beneficiary of an IRA owner who died before his required beginning date (RBD). Even after the SECURE Act, the 5-year payout is required when an IRA owner dies before his RBD without designating an individual beneficiary.

But the IRS surprised everyone in a recent revision of Publication 590-B by treating the 10-year rule differently than it has treated the 5-year rule. The IRS strongly hinted that the 10-year rule requires annual RMDs to be paid in years 1-9 and the remaining IRA funds to be paid out in year 10. Here’s an example from Publication 590-B that seems to say that:

Example: Your father died in 2020. You are the designated beneficiary of your father's traditional IRA. You are 53 years old in 2021, which is the year following your father's death. You use Table I (the IRS Single Life Expectancy Table) and see that your life expectancy in 2021 is 31.4. If the IRA was worth $100,000 at the end of 2020, your RMD for 2021 would be $3,185 ($100,000 ÷ 31.4).

We need to stress that the IRS’s apparent interpretation in Publication 590-B is not official guidance. For this reason, we recommend that beneficiaries subject to the 10-year rule hold off from taking RMDs in 2021 until later this year by which time the IRS will hopefully clarify this mess with official guidance.