

IRS PROVIDES LIMITED RMD RELIEF FOR 2021 AND 2022

Hodgson Russ Employee Benefits Alert
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IRS Notice 2022-53 announced new guidance and excise tax relief related to certain required minimum distributions (“RMDs”). The Notice was issued in response to comments the IRS received on its proposed RMD regulations issued earlier this year (see our article [here](#)), and is intended to resolve confusion and provide relief for certain beneficiaries of IRAs and defined contribution plan accounts who should have taken RMDs in 2021 and 2022.

Before the proposed regulations were issued, beneficiaries of a participant (or IRA owner) who died after his/her required beginning date may have reasonably interpreted the new 10-year rule to allow beneficiaries to wait until the last year of the 10-year period to take the RMD in a lump sum. The proposed regulations, however, express another approach. If a participant dies on or after his/her required beginning date, the remaining interest must be distributed “at least as rapidly” as the distribution method used by the participant (or IRA owner) on the date of death.

The result of this misinterpretation is that some beneficiaries who should have taken RMDs in 2021 and 2022, but thought they could wait to take the RMDs in a lump sum, are in violation of the proposed regulations and exposed to a 50% excise tax. The Notice states the IRS will not assert that an excise tax is due on any “specified RMDs” that were not taken in 2021 or 2022. Likewise, any defined contribution plan that failed to make a specified RMD will not be treated as having failed to satisfy Section 401(a)(9) merely because it did not make the distribution.

A “specified RMD” is any distribution required to be made pursuant to the proposed regulations in 2021 or 2022 under a defined contribution plan or IRA to:

- a designated beneficiary of an employee under the plan (or IRA owner) if:
 1. the employee (or IRA owner) died in 2020 or 2021;
 2. the employee (or IRA owner) died on or after the employee’s (or IRA owner’s) required beginning date; and
 3. the designated beneficiary is not taking lifetime or life expectancy payments pursuant to section 401(a)(9)(B)(iii); or
- A beneficiary of an eligible designated beneficiary, who died in 2020 or 2021, and was taking lifetime or life expectancy payments pursuant to Code Section 401(a)(9)(B)(iii).

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If a taxpayer has already paid an excise tax for a missed specified RMD in 2021, that taxpayer may request a refund. This notice also states the IRS intends to issue final RMD regulations that will apply no earlier than the 2023 distribution calendar year.

For more information, please contact [Amy P. Walters](#) (716.848.1481), [Joshua P. Gmerek](#) (716.848.1256), or any member of the Hodgson Russ [Employee Benefits Practice](#).