



### WHAT'S INSIDE?

#### IRS Waives 50% RMD Penalty for Missed 2021 and 2022 RMDs Within the 10-Year Payout Period

- Background
- Notice 2022-53
- Limited Relief
- Waiting for Final Regulations

<Pages 1-3>

#### Executive Summary

<Page 2>

#### 5-Step Guide to Plan-to-IRA Rollovers

- Step 1: Are company plans even accessible?
- Step 2: Can the distribution be rolled over?
- Step 3: Is an IRA rollover the best option?
- Step 4: How should the rollover be done?
- Step 5: How is the rollover reported?
- Conclusion

<Pages 4-6>

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#### Paying Roth Conversion Tax with IRA Money

<Pages 6-8>

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## IRS Waives 50% RMD Penalty for Missed 2021 and 2022 RMDs Within the 10-Year Payout Period

In [Notice 2022-53](#), issued on October 7, 2022, the IRS waived the 50% penalty for beneficiaries subject to the 10-year rule under the SECURE Act who have not taken 2021 or 2022 required minimum distributions (RMDs) from an inherited IRA.

### Background

In the past, most nonspouse beneficiaries could “stretch” RMDs from inherited accounts over their own single life expectancy, but this changed with the arrival of the SECURE Act in 2020. The SECURE Act imposed a 10-year payout rule for most retirement account beneficiaries for deaths in 2020 or later. That rule requires those beneficiaries to empty the retirement account by the end of the 10<sup>th</sup> year following the year the account owner died.

The SECURE Act exempts eligible designated beneficiaries (EDBs) from the 10-year rule. There are five classes of EDBs:

1. Surviving spouses;
2. Minor children of the account owner, until age 21 — *but not grandchildren*;
3. Disabled individuals — *under the strict IRS rules*;
4. Chronically ill individuals; *and*
5. Individuals older than, or not more than 10 years younger than, the IRA owner.

Furthermore, any designated beneficiary who inherited before 2020 is grandfathered under the pre-2020 stretch IRA rules.

On February 23, 2022, the IRS issued [proposed regulations](#), taking the position that when death occurs on or after the required beginning date (RBD), a non-eligible designated beneficiary must take annual RMDs **AND** the 10-year rule also applies.

The rule requiring annual RMDs when an account owner dies on or after her RBD is sometimes called the “at least as rapidly” rule. While it does not require the same amount that was taken by the IRA owner to also be taken by the beneficiary, it does require that the process of taking RMDs continue. Therefore, annual RMDs must continue after death.

From the “Explanation of Provisions” of the Proposed Regulations:

*“Accordingly, if an employee dies after the required beginning date, distributions to the employee’s beneficiary for calendar years after the calendar year in which*

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