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# Inherited Retirement Accounts – Required Distributions Under the SECURE Act

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Funds in 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 subjected to tax, 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 in these accounts must be distributed post-death has changed over time, most recently with the enactment of the SECURE Act, signed into law on December 20, 2019.<sup>3</sup>

## Required Minimum Distributions Before the SECURE Act

Under prior law, the post-death distribution requirements applied to inherited retirement accounts depended primarily on two factors:

- **Death on or after the required beginning date (RBD):** During life, an account owner was generally required to begin distributions no later than April 1 of the year following the year he or she reached age 70½. The SECURE Act changed the age at which these lifetime distributions are required to begin, to age 72, for individuals who reach age 70½ after December 31, 2019.
- **Who inherited the assets:** The law mandated certain minimum distribution periods, depending on who inherited the assets.

If an account owner passed away *before* reaching his or her RBD, the maximum allowable distribution periods were:

- **Surviving spouse:** A surviving spouse had two choices: (1) take ownership of the account, or (2) be treated as the beneficiary of the account. If the surviving spouse took *ownership*, distributions had to begin when the survivor reached age 70½. As the *beneficiary* of the account, distributions had to begin by the later of (a) 12/31 of the

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<sup>1</sup> Here, the term “traditional IRA” also includes SIMPLE IRAs and SEP IRAs. Roth IRAs are subject to different distribution rules.

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

<sup>3</sup> The SECURE Act, along with a number of other income-tax related changes, was part of an appropriations bill, the Further Consolidated Appropriations Act, 2020.

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year the owner would have reached age 70½ (had he or she lived), or (b) 12/31 of the year after the year the owner died. In either case, distributions could be made over the surviving spouse’s lifetime.

- **Designated beneficiary:** If the account owner had designated another individual as a beneficiary, distributions had to begin by 12/31/ of the year after the year of death, with distributions made over the designated beneficiary’s lifetime.
- **No designated beneficiary:<sup>1</sup>** The entire account balance was required to be distributed by the end of the fifth year after the year of the owner’s death.

If an account owner passed away *on or after* reaching his or her RBD, the maximum allowable distribution periods were slightly different:

- **Surviving spouse:** An RMD had to be made for the deceased owner for the year of death. If the surviving spouse took *ownership* of the account, distributions were required to begin when the survivor reached age 70½, and be made over the surviving spouse’s lifetime. As *beneficiary* of the account, distributions were required to begin by 12/31 of the year after the year of death, with distributions being made over the longer of the deceased owner’s life expectancy in the year of death, or that of the surviving spouse.
- **Designated beneficiary:** An RMD had to be made for the deceased owner for the year of death. RMDs had to begin by 12/31/ of the year after the year of death, with distributions made over the longer of the deceased owner’s life expectancy in the year of death, or the beneficiary’s life expectancy.
- **No designated beneficiary:** An RMD had to be made for the deceased owner for the year of death, with the remaining assets distributed over the deceased owner’s life expectancy in the year of death.

The law prior to the SECURE Act provided a significant advantage in that beneficiaries could “stretch” out distribution of the inherited assets over many years, continuing the tax-deferred growth inside a retirement account for as long as legally possible.

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<sup>1</sup>For example, an account left to a charity, to the account owner’s estate, or to a trust that didn’t meet certain requirements.

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## Required Minimum Distributions After the SECURE Act

The SECURE Act, generally applicable to account owners dying after December 31, 2019,<sup>1</sup> made major changes to the distribution requirements for inherited, defined contribution retirement accounts:

- **Shortened distribution period:** For many beneficiaries, the Act limited distribution of inherited retirement account assets to no more than 10 years.<sup>2</sup> This 10-year distribution requirement applies regardless if the account owner died before, or on/after the required beginning date (RBD).
- **Eligible designated beneficiaries:** The Act created a new category of beneficiaries, known as “eligible designated beneficiaries.” These are individuals for whom the 10-year maximum distribution rule does not apply. These include:
  - A surviving spouse
  - A disabled individual
  - An individual who is chronically ill
  - An individual who is no more than 10 years younger than the deceased account owner
  - A minor child of the deceased account owner

With the exception of a minor child, all of these individuals are permitted to take distributions over their remaining lifetimes. A minor child, once he or she reaches the age of majority (18 in many states), becomes subject to the mandatory 10-year distribution rule.

If an account owner dies *before the RBD*, the distribution periods are generally as follows:

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<sup>1</sup> For account owners who are participants in governmental plans, under IRC Sec. 457(b), the new law applies to individuals dying after December 31, 2021. Special rules apply to participants in plans subject to collective bargaining agreements.

<sup>2</sup> The Act does not specify *how* the funds are to be distributed. The only requirement is that all funds be distributed by the last day of the 10-year period.

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- **Surviving spouse:** As under prior law, a surviving spouse has two choices: (1) take ownership of the account in his or her own right, or (2) be treated as the beneficiary of the account:
  - If the surviving spouse becomes the *owner*, distributions are made over the survivor's lifetime, with distributions beginning when the survivor reaches age 72.
  - As the *beneficiary* of the account, distributions must begin by the later of 12/31 of the year the owner would have reached age 72 (had he or she lived), or 12/31 of the year after the year the owner dies. Distributions are made over the survivor's life expectancy.
- **Eligible designated beneficiaries:** Distributions must begin by 12/31 of the year after the year of death, with distributions made over the beneficiary's lifetime.
- **Designated beneficiary:** Distributions must be completed within 10 years.
- **No designated beneficiary:** The entire account must be distributed by the end of the fifth year after the year of the owner's death.

If the account owner dies *on or after the RBD*, the distribution requirements are somewhat different:

- **Surviving spouse:** An RMD must first be made for the deceased owner for the year of death.
  - If the surviving spouse becomes the account *owner*, distributions are made over the survivor's lifetime, with distributions beginning when the survivor reaches age 72.
  - As the *beneficiary* of the account, the surviving spouse must begin to receive distributions by 12/31 of the year after the year of the owner's death. Distributions are made over the longer of the life expectancy of the owner in the year of death, or that of the surviving spouse.
- **Eligible designated beneficiaries:** An RMD must be made for the account owner for the year of death. Beneficiary distributions must begin by 12/31 of the year after the year of death, with distributions made over the beneficiary's lifetime.

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- **Designated beneficiary:** An RMD must be made for the account owner for the year of death. Distributions must be completed within 10 years.
- **No designated beneficiary:** An RMD must be made for the deceased owner for the year of death. Thereafter, distributions are based on the owner's life expectancy in the year of death.

### Coronavirus Aid, Relief, and Economic Security (CARES) Act Considerations

Under one section of the CARES Act, the RMD requirement for 2020, including the RMD requirement applicable to beneficiaries of inherited accounts, was waived. The next required minimum distribution was for calendar year 2021. State or local law could vary.

### Seek Professional Guidance

The changes in the distribution requirements for inherited retirement accounts contained in the SECURE Act will have the effect of significantly speeding up the rate at which these assets are distributed and taxed. Particularly for individuals with larger IRA and retirement plan account balances, a review of the estate planning strategies currently in place is advisable.

In this effort, the advice and guidance of trained, experienced tax and legal professionals is highly recommended.