

IRS WAIVES 50% PENALTY FOR MISSED 2021 AND 2022 RMDs WITHIN THE 10-YEAR PERIOD

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Last Friday (October 7, 2022), the IRS waived the 50% penalty on missed 2021 and 2022 inherited retirement account RMDs for beneficiaries subject to the SECURE Act 10-year payout period. The guidance was in [IRS Notice 2022-53](#).

The Notice says the IRS will not impose the penalty for missed **2021** or **2022** RMDs within the 10-year period if the account owner died in **2020** on or after his required beginning date with a beneficiary who is not an eligible designated beneficiary (“EDB”). (The “required beginning date” is April 1 of the year after the year the IRA owner turns 72.) The IRS also will not impose a penalty for a missed **2022** RMD within the 10-year period by a beneficiary who is not an EDB, if the account owner died in **2021** on or after his required beginning date.

The IRS says that a penalty on missed RMDs within the 10-year term will not be imposed until **2023** at the earliest. If a beneficiary already paid the penalty for a missed 2021 RMD, the beneficiary can request a refund from the IRS.

Although the Notice is not clear, it appears that, since the penalty is waived, the missed RMDs do not have to be taken at all.

It is important to note that the Notice **does not** affect lifetime RMDs, inherited IRAs by EDBs or RMDs by beneficiaries who inherited before 2020.

As background, the SECURE Act imposed a 10-year payout rule for an individual beneficiary who is not an EDB and who inherits after 2019. That rule requires that a non-EDB empty the retirement account by the end of the 10th year following the

year the account owner died.

On February 23, 2022, the IRS issued proposed regulations that said that, if the account died on or after his required beginning date, a non-EDB would be subject to the 10-year rule **AND** would be required to take annual RMDs during years 1-9 of the 10-year period. That interpretation surprised most commentators who thought the 10-year rule would apply like the pre-SECURE Act 5-year rule, which did not require annual RMDs.

In Notice 2002-53, the IRS said it received a number of comments indicating that it would be unfair to apply the annual RMD requirement when an account holder died in 2020, since the non-EDB would not have known that an RMD was required in 2021.

The Notice also gives relief to beneficiaries of an EDB who died in 2020 or 2021 while taking annual RMDs.

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