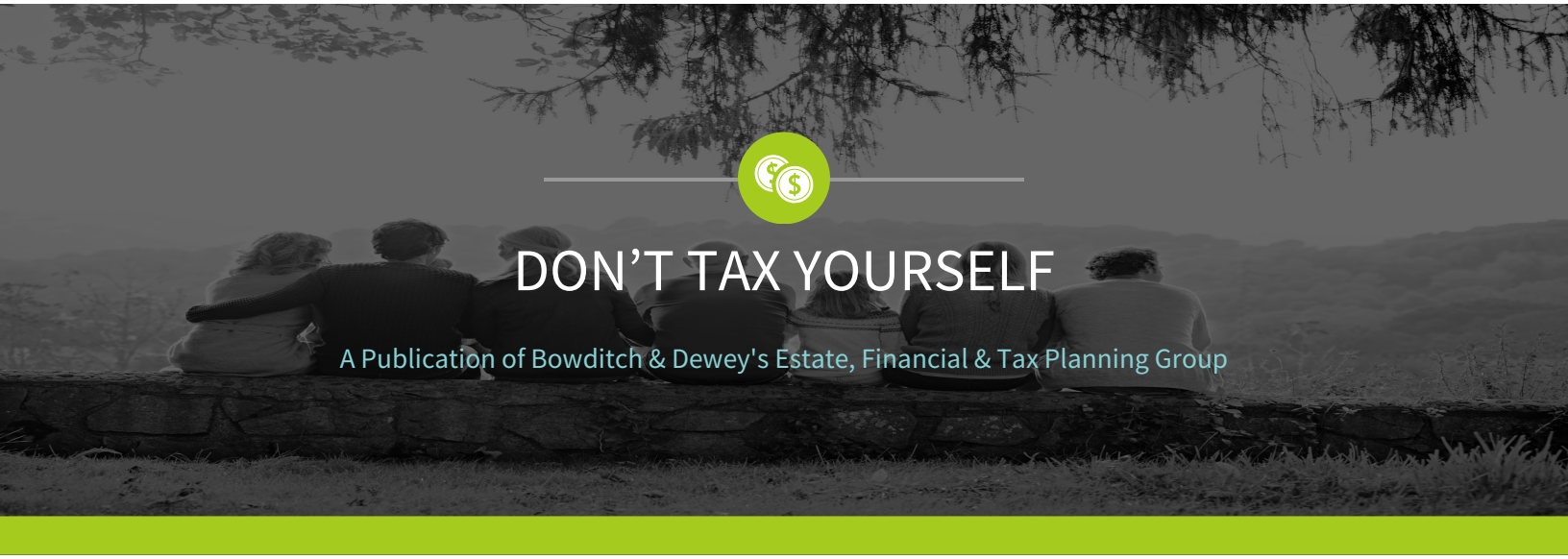

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IRS Issues Updates to Retirement Plan Rules under SECURE Act 2.0

BY BOWDITCH & DEWEY • DECEMBER 17, 2024

On July 19, 2024, the Internal Revenue Service ("IRS") issued final regulations ("2024 regulations") regarding the SECURE Act of 2019 and the SECURE Act 2.0 of 2022, which apply to 401(a) plans, 401(k) plans, traditional and Roth IRAs, 403(b) plans, and 457(b) plans.

Effective as of September 17, 2024, the 2024 regulations apply to retirement plan Required Minimum Distributions ("RMDs") beginning on or after January 1, 2025.

The purpose of this article is to highlight several important updates to the SECURE Act and SECURE ACT 2.0 and it does not extensively discuss all updates from the 2024 regulations.

UPDATES TO REQUIRED MINIMUM DISTRIBUTION RULES

Roth accounts that are part of 401(k) or 403(b) plans are not subject to RMDs for 2024 and later years.

The 2024 regulations clarify the applicable age at which RMDs are required. One must begin taking RMDs by April 1 of the calendar year following the year the plan participant reaches RMD age, which are updated as follows:

- Beginning at age 70½ if born before 7/1/1949
- Beginning at age 72 if born on or after 7/1/1949 but before 1/1/1951
- Beginning at age 73 if born in 1951 through 1959
- Beginning at age 75 if born after 1959

REQUIRED MINIMUM DISTRIBUTIONS RULES FOR ELIGIBLE DESIGNATED BENEFICIARIES

The original SECURE Act established that an Eligible Designated Beneficiary ("EDB") may, except in the case of a minor child, take RMDs over the EDB's life expectancy.

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An eligible designated beneficiary is:

- The surviving spouse of the plan participant.
- A child of the plan participant who has not reached the age of majority (21) as of the date of the plan participant's death.
- A disabled individual.
- A chronically ill individual.
- An individual who is not more than 10 years younger than the plan participant.

The 2024 regulations update rules for spouses and minors:

If the surviving spouse is the sole EDB, and the plan participant dies before his or her required beginning date, the spouse may defer taking the RMD until the later of December 31st of the calendar year after the year of the plan participant's death, or December 31st of the calendar year in which the plan participant would have reached his or her applicable age for RMDs.

If a child is an EDB and was under age 21 when the plan participant died, when the child reaches age 21 the entire account must be distributed to the child by December 31st of the 10th calendar year after the calendar year that the child reached 21, unless the child satisfies other EDB criteria, such as being chronically ill.

REQUIRED MINIMUM DISTRIBUTIONS RULES FOR NON-ELIGIBLE DESIGNATED BENEFICIARIES

If the plan participant died ***prior*** to the start of RMDs, the entire account must be distributed by December 31st of the year of the 10th anniversary of the plan participant's death.

If the plan participant died on or ***after*** the start of RMDs, the RMD must satisfy the "at least as rapidly" rule and the beneficiary must take annual RMDs until December 31st of the 10th calendar year after the year of the plan participant's death (using the life expectancy of the plan participant or designated beneficiary, based on whoever was younger in the year of the plan participant's death).

REQUIRED MINIMUM DISTRIBUTION RULES WHEN THERE IS "NO DESIGNATED BENEFICIARY"

A plan participant who names a non-individual as beneficiary is treated as having "no Designated Beneficiary" for RMD purposes. Examples of non-Designated Beneficiaries include the plan participant's estate, charities, or trusts that do not qualify as "see-through trusts" under the 2024 regulations. The definition and qualifications of see-through trusts are beyond the scope of this article.

Non-individuals that do not meet the see-through trust requirements are not Designated Beneficiaries and must distribute the entire account by December 31st of the 5th calendar year after the year of the plan participant's death, if the plan participant died ***before*** the start of RMDs, or if he or she died ***after*** the start of RMDs, RMDs continue based on the life expectancy of the deceased plan participant.

SEPARATE ACCOUNT TREATMENT FOR SEE-THROUGH TRUSTS

The 2024 regulations allow each beneficiary of a see-through trust to use his or her own life expectancy for any RMDs, rather than the life expectancy of the oldest trust beneficiary. This type of treatment is known as the "separate account rule," and is particularly relevant when there is a large age gap between trust beneficiaries.

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Prior to the 2024 regulations, if a plan participant wanted separate account treatment when naming a trust as beneficiary of a retirement plan, the plan participant had to name the separate subtrust for each beneficiary on a beneficiary designation form (rather than the "operating" trust which divided the property into multiple shares).

In order to receive separate account treatment under the 2024 regulations, the trust has to immediately divide on the plan participant's death into separate shares for the trust beneficiaries and the interest of each beneficiary must be held separately. A trust will not fail to be immediately divided due to administrative delays between the date of the plan participant's death and the date on which the trust actually is divided so long as any amounts received by the trust during this period are allocated as if the trust had been divided on the date of the plan participant's death.

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