

SECURE Act FAQs

Q: How did the SECURE Act change the eligibility rules for Traditional IRA funding?

A: Prior to 2020, an individual became ineligible to fund a Traditional IRA beginning in the year he attained age 70½. With the passage of the SECURE Act, this age restriction on funding Traditional IRAs has been eliminated.

Q: Are there other requirements to be eligible to fund a Traditional IRA after the age of 70 ½?

A: While the SECURE Act eliminated the age restriction on Traditional IRA funding, an individual must have eligible compensation—typically earned income from working—or be married (filing jointly) to a spouse who has eligible compensation to be eligible to fund a Traditional IRA.

Q: Can a Traditional IRA owner take RMDs out and still fund their IRA?

A: Yes, an IRA owner who is in required distribution status may continue funding their Traditional IRA provided they have eligible compensation.

Q: What changes did the SECURE Act make concerning IRA RMDs?

A: The SECURE Act raised the age at which Traditional, SEP and SIMPLE IRA owners must begin taking RMDs from age 70½ to age 72.

Q: Who is eligible to wait until age 72 to begin taking RMDs?

A: Under the SECURE Act rules, Traditional IRA, SEP IRA and SIMPLE IRA owners who were born on or after July 1, 1949 are not required to begin RMDs until the year they turn 72 years of age.

Q: What is the required beginning date (RBD) for individuals who are required to begin mandatory distributions at age 72?

A: The RBD for individuals who are required to begin RMDs at age 72 is April 1 following the year in which such individual attains age 72.

Note: Individuals who choose to delay their first RMD beyond December 31 of year in which they reach age 72 must still take a second RMD by December 31 of the year following the year in which they attained age 72.

Q: What if a financial institution sent out erroneous RMD Statements to IRA owners turning 70½ in 2020?

A: There is compliance risk for financial organizations that sent out erroneous RMD Statements to IRA owners turning 70½ in 2020. However, the IRS has provided compliance relief for such situations in IRS Notice 2020-06. As prescribed in Notice 2020-06, IRA providers that sent out erroneous RMD Statements to individuals turning age 70½ in 2020 will not be found to be noncompliant if they provide updated, accurate information to such affected individuals by no later than April 15, 2020.

Q: What did the SECURE Act change with regards to births and adoptions?

A: A 10% early distribution penalty under Internal Revenue Code (IRC) Section 72(t) typically applies to taxable distributions taken from IRAs or qualified plans prior to age 59½. The SECURE Act provides an early distribution penalty exception, within certain limits, for IRA and qualified plan distributions taken prior to age 59½ in connection with a qualifying birth or adoption.

Q: Does the new penalty-free distribution option only apply to birth or adoptions that occur on or after January 1, 2020?

A: No. While the new SECURE Act rule allowing penalty-free distributions for births and adoptions did not become effective until January 1, 2020, the new rule allows taxpayers to take Qualified Birth or Adoption Distributions during the 2020 tax year that are related to births and adoptions that occurred during 2019 (provided the distribution is taken within one year of the birth or adoption).

Q: What is the maximum amount someone can withdraw as a Qualified Birth or Adoption Distribution and does the \$5,000 limit apply on a per taxpayer basis?

A: \$5,000 is the maximum dollar amount that may be taken by any one taxpayer as a Qualified Birth or Adoption Distribution for each qualifying birth or adoption. The \$5,000 limit applies on a per taxpayer basis. Accordingly, each parent of a newborn child or qualified adoptee is eligible to withdraw up to \$5,000 as a penalty-free Qualified Birth or Adoption Distribution.

Q: Is the \$5,000 limit a lifetime limit, or the maximum amount that can be taken per birth or adoption?

A: The \$5,000 limit is per event (i.e., birth or adoption). If an individual has more than one child, or adopts more than one qualifying individual, he is eligible to withdraw up to \$5,000 as a penalty-free Qualified Birth or Adoption Distribution for each birth or adoption. For example, if an individual has twins, that would qualify as two events which would allow for a distribution up to \$10,000, penalty free, upon the birth of the twins.

Q: How should the Qualified Birth or Adoption Distribution be reported?

A: IRA providers are required to report Qualified Birth or Adoption Distributions in Box 7 of Form 1099-R with a Code 1 (Early distribution, no known exception), a Code J (Early distribution from a Roth IRA), or a Code S (Early distribution from a SIMPLE IRA in the first 2 years, no known exception), when applicable. With IRA providers reporting with Codes 1, J and S, it will be the IRA owner who is responsible for claiming the penalty exception for a Qualified Birth or Adoption on his taxes.

Q: How do IRA providers handle the repayment of a Qualified Birth or Adoption Distribution?

A: IRA providers are required to report repayments of Qualified Birth or Adoption Distributions as repayments in Boxes 14a and 14b of IRS Form 5498. The amount of the repayments will be reported in Box 14a and "BA" is to be reported in Box 14b. These repayments are NOT reported in Box 2 as rollovers.

Q: What changes did the SECURE Act make to the distribution rules that apply to IRA beneficiaries following the death of an IRA owner?

A: The SECURE Act imposes new rules that significantly restrict the situations under which an IRA beneficiary may "stretch" withdrawals from an inherited IRA over the beneficiary's life expectancy.

Q: If an IRA owner passed away prior to January 1, 2020, do the new SECURE Act rules impact the payout options for the deceased IRA owner's beneficiaries?

A: The SECURE Act does not affect the payout options available to beneficiaries of IRA owners who passed away prior to January 1, 2020, except for certain spouse beneficiaries who are maintaining inherited IRAs. In cases where the deceased IRA owner was born after June 30, 1949, and died before her required beginning date prior to 2020, and the spouse beneficiary is the sole primary beneficiary of the IRA, life expectancy payments must begin by the later of December 31st of the year following the year of the IRA owner's death or December 31 of the year the IRA owner would have attained age 72 (if still living) rather than age 70½ as was required under the pre-SECURE Act rules. The new SECURE Act rules do, however, impact the options available to the successor beneficiaries of an inherited IRA if the inherited IRA owner passes away on or after January 1, 2020, before depleting all assets in their inherited IRA.

Q: Did the SECURE Act change the beneficiary withdrawal rules for nonperson beneficiaries such as charities and estates?

A: No. The SECURE Act did not change the withdrawal requirements for nonperson beneficiaries such as estates and charities. Accordingly, in situations involving a Traditional IRA owner's death before the required beginning date, nonperson beneficiaries will remain subject to the conventional 5-year rule. How the IRS will interpret the withdrawal requirements for nonperson beneficiaries in situations where an IRA owner passes away on or after the required beginning date remains to be seen.

Q: What types of beneficiaries still qualify for the Life Expectancy Payment Option?

A: The SECURE Act provides that certain types of beneficiaries are eligible to choose to withdraw funds over their life expectancy as an alternative to the 10-year rule. The beneficiaries that are eligible for this option under the SECURE Act include

- Spouse Beneficiaries
- Disabled Beneficiaries (as defined in IRC Sec. 72(m)(7))
 - Chronically-Ill Beneficiaries (as defined in IRC Sec. 7702B(c)(2) with the additional requirement that the illness is “an indefinite one which is reasonably expected to be lengthy in nature”)
 - Children Beneficiaries (of the deceased IRA owner, but only until reaching the age of majority)
- Beneficiaries not more than 10 years younger than the deceased IRA owner.

Q: Does a spouse beneficiary still have the option of treating his deceased spouse’s IRA as his own?

A: Yes. The SECURE Act did not impose any new restrictions on a spouse beneficiary’s right to treat a decedent’s IRA as his own IRA.

Q: Does a minor child beneficiary have to stop taking life expectancy payouts once he reaches the age of majority?

A: Yes, and no. An IRA owner’s child beneficiary is only eligible for the Life Expectancy Payment Option while the child is a minor. Accordingly, once a child reaches the age of majority, he becomes subject to the 10-year rule. At that point, all inherited IRA assets must be distributed within 10 years of the year in which the child reached the age of majority. Once a child beneficiary reaches the age of majority and becomes subject to the 10-year rule, he can take distributions however quickly or slowly he wishes provided all assets are distributed within 10 years (i.e. during the 10-year period, there is no minimum annual distribution amount).

Q: Is it true that IRA beneficiaries who are not more than 10 years younger than, a deceased IRA owner are eligible to take life expectancy distributions?

A: Yes, beneficiaries who are not more than 10 years younger than a deceased IRA owner are considered “Eligible Designated Beneficiaries” and are, therefore, eligible for the Life Expectancy Payment Option.

Q: Do beneficiaries that are older than the deceased IRA owner qualify for the Life Expectancy Payment Option as an Eligible Designated Beneficiary who is “not more than 10 years younger” than the deceased IRA owner?

A: Yes, the “not more than 10 years younger” category of Eligible Designated Beneficiaries includes beneficiaries that are older than the deceased IRA owner.