IRS Waives Some 50% Excise Taxes

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Take-Away: The 50% penalty imposed on the failure to take a required minimum distribution (RMD) from an inherited retirement account just got waived for three years for some designated beneficiaries.

Background: The SECURE Act not only change the distribution rules from inherited IRAs to 10 years for most beneficiaries, but the Act also created confusion (or more accurately, its Proposed Temporary Regulations did) when the Regulations required *annual* required minimum distributions (RMDs) from an inherited IRA when its owner was older than his/her required beginning date (RBD) at the time of his/her death. Many designated beneficiaries of inherited IRAs thought that they had up to 10 years in which to take distributions from their inherited IRA, when under the Proposed Regulations they had to take their first RMD in the year that follows the account owner's death. This 'rule' exposed the beneficiary to the 50% excise tax for their failure to take an RMD. The IRS just published two Notices that relieve some, but not all, beneficiaries from the 50% excise tax that results from their failure to take an RMD.

Notices 2022-53 and 2023-54: These two Notices waive the 50% excise tax for some individuals who inherited IRAs. The Notices provide that the 50% excise tax is waived for years 2021, 2022, and 2023 for those who inherited retirement accounts is they were: (i) designated beneficiaries, i.e., individuals; (ii) the deceased account owner died in 2019; and (iii) the deceased account owner was older than his/her RBD at the time of his/her death. If all three conditions are met, the 50% excise tax is waived for those three calendar years.

50% Penalty Not Waived: The 50% excise tax is NOT waived, however, when either the 5-year distribution rule applies or the '*ghost distribution period*' rule applies .

- 5-Year Distribution Rule: This rule applies when a non-designated beneficiary is the beneficiary of the retirement account. A *non-designated* *beneficiary* is a charity, a legal entity, or an estate, which often means the default beneficiary under an IRA custodial agreement when the IRA owner fails to name a beneficiary of his/her IRA. *Designated beneficiaries* are individuals, not entities.

- *Ghost Distribution Rule:* The *ghost distribution rule* applies when the account owner dies after his/her required beginning date (RBD) and a designated beneficiary is not named. In this situation, distributions from the decedent's retirement account may occur over the theoretical life expectancy of the account owner for his/her age of the year, *had the account owner still lived.* The Single Life Table is used to calculate the RMDs for the *ghost distribution period.*

Conclusion: The Notices provide considerable relief to many confused inheritors of retirement accounts after 2019. Sadly, no relief is given to what are the estates that are default beneficiaries when the account owner simply failed to complete a beneficiary designation.