Take-Away: The Final Regulations that provide guidance to the SECURE Act, released on July 18, 2024, give a slightly broader definition of an *eligible designated beneficiary* and some relief from the certification requirements.

Background: The SECURE Act created the new concept of an *eligible designated beneficiary,* or EDB, who can continue to take *stretch* distributions from an inherited IRA or qualified plan account over the beneficiary's life expectancy with *annual* required minimum distributions (RMDs.) Those beneficiaries who are *eligible designated beneficiaries* include: (i) a surviving spouse; (ii) a minor child of the retirement account owner; (iii) a *disabled* individual; (iv) a *chronically ill* individual; and (v) an individual who is not more than 10 years younger than the retirement account owner. The Final Regulations do not expand these five categories of *eligible designated beneficiaries*. However, the Final Regulations will make it a bit easier for a beneficiary to fit within three of the statutory EDB categories.

Minor Children: A child of a retirement account owner is an *eligible designated beneficiary* so long as the child is under the age 21 years. Once that age is reached, the child then is subject to the SECURE Act's 10-year distribution rule, i.e., the inherited retirement account must be emptied by that child by age 31.

> **Expanded Definition of *Child:*** The Final Regulations expand who is a *child* of the retirement account owner to include **legally adopted children, stepchildren, and foster children.**

Disabled Individuals: The SECURE Act provides that an individual is considered *disabled*, and thus an *eligible designated beneficiary,* if he/she is unable to perform any job because of a physical or mental impairment which can be expected to result in death or continue indefinitely.

Automatic EDB: The Final Regulations state that if a beneficiary has been classified as *disabled* by the Social Security Administration, he/she will **automatically** be an *eligible designated beneficiary*.

Alternate Definition: The Final Regulations also provide an alternative definition of *disability* that can be used when the beneficiary is under the age 18 when he/she inherits an IRA or qualified plan account. The **alternate definition** replaces the requirement that the beneficiary's impairment makes it impossible for him/her to perform any job, with a requirement that **the impairment causes severe functional limitations.** This alternate definition of *disability* should make it easier for a young beneficiary to meet the *disability* standard and thus become an *eligible designated beneficiary.* Thus, a *disabled* child of the account owner, who is under the age of 21 at the time of their parent's death, will be able to take annual RMDs over their lifetime, whereas a child who is not disabled will have to fully empty their inherited retirement account by age 31.

Documentation of *Disability* or *Chronic Illness:* The SECURE Act requires that documentation of a *disability* or *chronic illness* be provided to the IRA custodian or the qualified plan administrator. Initially the Act required that this documentation had to be provided by October 31 of the year following the year of the retirement account owner's death. This documentation/disclosure requirement raised serious privacy concerns about medical conditions.

Certification Waiver: The IRS has completely **waived the certification** requirement for beneficiaries of inherited IRAs. For qualified plan beneficiaries, the IRS notes that the certification *"need not be overly detailed"* and that it can be satisfied **without providing backup documentation such as medical records.**

Extended Certification Deadline: A *disabled or chronically ill* beneficiary who inherited a qualified plan account at any time between

2020 and 2023 and who did not provide the required certification to the plan administrator by the statute’s October 31 deadline now has until **October 31, 2025** to do so.

Conclusion: These new interpretations of the SECURE Act by the IRS mean that more individual beneficiaries may be able to meet the definitions of an *eligible designated beneficiary,* and consequently they will be able to *stretch* distributions from their inherited retirement account beyond the SECURE Act’s normal 10-year distribution requirement.