Understanding the "At Least as Rapidly" Rule

Take-Away: The Tax Code's 'at least as rapidly rule' creates some surprises when it comes to the need to take *annual* required minimum distributions from an inherited IRA.

Background: The 'at least as rapidly' rule has been in the headlines ever since the IRS published its proposed Regulations to implement the SECURE Act of 2019. This is because the IRS concluded that the 'at least as rapidly' rule 'trumps' the mandatory 10-year-it-must-be-emptied distribution period the SECURE Act created for those beneficiaries who inherit an IRA from an owner who was older than his/her required beginning date (RBD), thus requiring that beneficiary take *annual* required minimum distributions (RMDs) from the inherited IRA in each of those 10 years. What may come as a surprise is that the 'at least as rapidly' rule applies to more than those who inherit an IRA from an owner who had started taking RMDs due to his/her age before his/her death.

At Least as Rapidly Rule: This rule was in the Tax Code before the SECURE Act. [IRC 401(a)(9)(B)(i)(ii).] The rule does not require the beneficiary to take the exact same amount that was taken by the IRA owner prior to his/her death. The rule does, however, require that the process of taking *annual* RMDs continue by the beneficiary. Restated, this rule is not a function of the amount to be taken; rather, it is a function of frequency of the required withdrawals. As one prominent commentator has succinctly described it- "once RMDs have started for the IRA owner, they cannot be turned off." The rule in the Tax Code provides:

"The remaining portion of such interest will be distributed at least as rapidly as under the method of distributions being used under subparagraph A(ii) as of the date of his [the account owner] *death."*

The SECURE Act did not change this provision. Instead, the SECURE Act added a new section which requires most non-spouse beneficiaries to empty an inherited account in 10 years. [IRC 401(a)(9)(H).] Therefore, the 'at least as rapidly' rule requires RMDs to be taken by some beneficiaries each year after the account owner's death, in addition to the 10-year distribution rule, where all funds in the inherited IRA must be withdrawn by the end of the 10th year after death.

Example: Deana died at age 85 in 2020. Her son Ben is the designated beneficiary of Deana's IRA. Deana died after her RBD. Therefore, Ben must take *annual* RMDs from the inherited IRA, using his own life expectancy to calculate those *annual* RMDs. Since the IRS waived RMDs for 2021,2022, and 2023 due to the confusion caused by its proposed Regulations, Ben did not take any RMDs from the inherited IRA. However, starting in 2025, Ben must take an *annual* RMD from the inherited IRA over the balance of that original 10-year distribution period.

How Ben's RMD is calculated can also lead to mistakes. Assume Ben was age 60 in 2020. Its now 2025 and Ben is now age 65. The life expectancy factor (divisor) for a 65-year-old under the IRS Single Life Table is *22.9*. Logic would say that dividing the inherited account balance in late December 2024 by 22.9 would be the correct way for Ben to calculate his RMD amount. But not so fast- logic with the IRS? Instead, Ben must go back and determine what his baseline life expectancy was back in 2021, when Ben was age 61. For each subsequent year, Ben must subtract 1.0 year up to 2025. The life expectancy of a 61-year-old using the IRS's Single Life Table is 26.2. Thus, subtracting 1.0 for each year up to 2025 leads to a life expectancy factor of *22.22*, not a 22.9 divisor, i.e., a larger amount RMD is the result that Ben must take as his RMD. If Ben does not correctly determine his life expectancy divisor, he will have failed to take his full RMD, exposing him to a 25% excise tax.

Scope of the '*At Least as Rapidly'* Rule: This 'new' interpretation requiring *annual* RMDs taken by the beneficiary from an inherited IRA when the account owner died after his/her RBD, has been covered in the past with several missives, including one in July when the IRS published its Final Regulations reasserting its interpretation of the 'at least as rapidly' rule, to the consternation of many. What may come as a surprise is that the 'at least as rapidly' rule can also apply to some beneficiaries, or successor beneficiaries, who inherit from an IRA owner who had not died prior to his/her RBD.

EDB Example: In 2025, Charlie, age 10, inherits an IRA from his father, Brad, age 48. Charlie is an *eligible designated beneficiary* (EDB). Accordingly, Charlie can stretch his distributions from the inherited IRA over his single life expectancy. This will continue until Charlie turns age 21. Charlie's 21st birthday is in 2036. Because Charlie will have then reached the age 21 the SECURE Act's 10-year distribution rule will then apply. This means that Charlie must empty the inherited IRA by December 31, 2046- by the 10th year after he attains the age 21. Even though Brad died well before his RBD for his own RMDs to start, Charlie must continue to take *annual* RMDs from the inherited IRA for years 1-9 of the 10-year period. Since Charlie started taking RMDs as a minor child (who is an EDB)using his single life expectancy to calculate his *annual* RMDs, i.e., *stretch* distributions, the 'at least as rapidly' rule requires that Charlie continue to take *annual* RMDs when he starts the SECURE Act's 10-year distribution period at age 21.

Successor Beneficiary Example: Sara dies in 2024 at age 83. Her IRA beneficiary is her son Bud. Bud is an *eligible designated beneficiary,* or EDB, as he is chronically ill. If Bud were not an EDB, he would maintain the existing SECURE Act 10-year distribution period; Bud would then have to empty the inherited IRA by December 31, 2034. With his election to stretch distributions as an eligible designated beneficiary, Bud must continue to take *annual* RMDs based on Bud's single life expectancy. Since Bud was an EDB, RMDs must continue to be taken by the successor beneficiary named by Bud, using Bud's life expectancy to calculate the *annual* RMD amount. Bud's successor beneficiary, his daughter Sue, would step into his shoes. Additionally, since Bud was an EDB leveraging the full lifetime stretch distribution rules, Sue will overlay a new 10-year distribution period. Bud 'turned on' RMDs since he was an eligible designated beneficiary; Sue cannot turn it off.

Conclusion: While much has been complained and written about the IRS's interpretation of the 'at least as rapidly' rule when the IRA owner dies after his/her required beginning date (RBD, age 73 currently) not to be overlooked is that the same 'at least as rapidly' rule also applies in other situations when the deceased IRA owner was not older than his/her RBD. It is a rule that needs to be kept in mind when deciding if a beneficiary should make a claim that he/she is an *eligible designated beneficiary* which then starts, but never stops, the need to take *annual* required minimum distributions.