Post-Death Required Minimum Distribution Rules Modified

Minimum distribution rules apply to tax-favored employer-sponsored retirement plans and IRAs. While an employee (or IRA owner) is alive, distributions of the individual's interest are required to be over the life or life expectancy of the employee (or IRA owner), or over the joint lives or joint life expectancy of the employee (or IRA owner) and a designated beneficiary.

Before January 1, 2020, the after-death minimum distributions rules vary depending on (a) whether an employee (or IRA owner) dies before, on, or after the required beginning date, and (b) whether one or more individuals is the beneficiary of the benefit. Under the rules, only an individual may be a "designated beneficiary." If an employee (or IRA owner) dies on or after the required beginning date, the basic statutory rule has been that the remaining interest must be distributed at least as rapidly as under the method of distribution being used before death.

If an employee (or IRA owner) dies before the required beginning date and any portion of the benefit is payable to a designated beneficiary, the rule is that distributions are generally required to begin within one year of the employee's (or IRA owner's) death and are allowed to be paid over the life or life expectancy of the designated beneficiary. If the beneficiary of the employee (or IRA owner) is the individual's surviving spouse, distributions are not required to begin until the year in which the employee (or IRA owner) would have attained age 70½. If the surviving spouse dies before the employee (or IRA owner) would have attained age 70½, the after-death rules apply after the death of the spouse as though the spouse were the employee (or IRA owner).

If an employee (or IRA owner) dies before the required beginning date and there is no designated beneficiary, then the entire remaining interest of the employee (or IRA owner) must generally be distributed by the end of the fifth calendar year following the individual's death (the 5-year rule).

Under the SECURE Act, generally effective for distributions with respect to employees (or IRA owners) who die after Dec. 31, 2019 (see below for exceptions), the required minimum distribution rules are modified with respect to defined contribution plan and IRA balances (including annuity contracts purchased from insurance companies under defined contribution plans or IRAs) upon the death of the account owner.

Under the SECURE Act, the general rule is that after an employee (or IRA owner) dies, the remaining account balance must be distributed to designated beneficiaries (that is, individuals) within 10 years after the date of death. This rule applies regardless of whether the employee (or IRA owner) dies before, on, or after the required beginning date, unless the designated beneficiary is an eligible designated beneficiary (see below). Under the 10-year rule, the remaining account balance must be distributed by the end of the tenth calendar year following the year of the employee or IRA owner's death.

This change does not affect the 5-year distribution rule applicable to beneficiaries who are not individuals. This change also does not generally affect the see-through trust rules.

An exception to the 10-year rule for post-death required minimum distributions applies to an "eligible designated beneficiary." This is an individual who, with respect to the employee or IRA owner, as of the date of his or her death, is:

1. the surviving spouse of the employee or IRA owner;
2. a child of the employee or IRA owner who has not reached majority;
3. a disabled person (meaning any individual who is proven to be unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration);
4. a (meaning any individual who has been certified by a licensed health care practitioner as being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living due to a loss of functional capacity for an indefinite period which is reasonably expected to be lengthy in nature, or requiring substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment); or
5. any other individual who is not more than ten years younger than the employee or IRA owner.

Under the exception, following the death of the employee or IRA owner, the remaining account balance generally may be distributed (similar to present law) over the life or life expectancy of the eligible designated beneficiary, beginning in the year following the year of death.

Following the death of an eligible designated beneficiary, the account balance must be distributed within 10 years. After a child of the employee or IRA owner reaches the age of majority, the balance in the account must be distributed within 10 years after that date.

The Act adds the new concept of an “applicable multi-beneficiary trust.” This is a trust which has more than one beneficiary all of which are “designated beneficiaries,” and at least one of which is an eligible designated beneficiary that is a “chronically ill individual” or a “disabled person.” If an applicable multi-beneficiary trust requires division following the death of the employee or IRA owner into separate shares for each beneficiary, the share of the benefit of any chronically ill individual or disabled person may distributed over the life or life expectancy of the eligible designated beneficiary. If instead of dividing following the death of the employee or IRA owner, the applicable multi-beneficiary trust provides that no individual other than a chronically ill individual or a disabled person has any right to the benefit until the death of all eligible designated beneficiary that are chronically ill individuals or disabled persons, the entire benefit may distributed over the life or life expectancy of the eligible designated beneficiary that is a chronically ill individual or a disabled person, and any benefit remaining thereafter passing to eligible designated beneficiaries that are not chronically ill individuals or disabled persons will be treated as passing to the designated beneficiaries of the eligible designated beneficiary that is a chronically ill individual or a disabled person.

Questions?

If you have any questions, please contact **David DeJarnett**, leader of the Bowles Rice Tax Team, at **(304) 264-4232**.