

October 16, 2023

The Honorable Ron Wyden, Chairman
Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Jason Smith, Chairman
House Committee on Ways & Means
1139 Longworth House Office Building
Washington, D.C. 20515

The Honorable Mike Crapo, Ranking Member
Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Richard Neal, Ranking Member
House Committee on Ways & Means
1102 Longworth House Office Building
Washington, D.C. 20515

RE: IRS Regulations on Required Minimum Distributions from Inherited IRAs

Dear Chairmen Wyden and Smith, and Ranking Members Crapo and Neal:

The Texas Society of Certified Public Accountants (TXCPA) is a nonprofit, voluntary professional organization representing more than 28,000 members. One of the expressed goals of the TXCPA is to speak on behalf of its members when such action is in the best interest of its constituency and serves the cause of the CPAs of Texas, as well as the public interest. TXCPA has established a Federal Tax Policy Committee to represent those interests on tax-related matters. The committee has been authorized by the TXCPA Leadership Council to submit comments on such matters of interest to the committee membership. The views expressed herein have not been approved by the Leadership Council or Board of Directors and, therefore, should not be construed as representing the view or policies of the TXCPA.

IRS Reverses Apparent Congressional Intent on Required Minimum Distributions for Inherited IRAs

In the *Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019*, Congress changed the laws regarding required minimum distributions (RMDs) from inherited retirement accounts. The most significant change made by the *SECURE Act* was to remove the ability to stretch distributions over the beneficiary's life expectancy for a designated, non-eligible beneficiary, such as an adult child of the decedent.

Contrary to clear legislative language and the apparent intent of Congress, the IRS' proposed regulations REG-105954-20 impose annual RMDs on many inherited IRAs before the end of the legislated 10-year deadline. This removes the flexibility intended by Congress to help cushion the blow on the loss of the ability to stretch the distributions and also adds to compliance costs because the RMD amounts for inherited IRAs are not reported on Form 5498¹ and must be calculated by a professional based on the beneficiary's life expectancy.

Code Section 401(a)(9)(H)(i)(I) enacted in the *SECURE Act* extended the deadline for completing distributions from an inherited IRA for a non-eligible, designated beneficiary from five to 10 years with no new required interim distributions. However, the IRS' proposed regulations require a non-eligible, designated beneficiary who inherits an IRA after the decedent's RMD start date to take required annual distributions in years 1 through 9 based on the heir's life expectancy with the entire balance distributed by the end of the 10-year deadline. This will accelerate distributions starting in year 1 instead of allowing them to be taken any time during the 10 years. Congress provided a 10-year deadline and taxpayers who meet that deadline should not be penalized.

¹ [About Form 5498, IRA Contribution Information \(Info Copy Only\) | Internal Revenue Service \(irs.gov\)](#).

Chairmen Wyden and Smith
Ranking Members Crapo and Neal
October 16, 2023
Page 2

The required annual distributions are contrary to the apparent intent of Congress and to legislative language in Section 401(a)(9)(H)(i)(II), which indicates that the language of "within 10 years" shall apply even if RMDs have commenced prior to death. This is also consistent with the prior regulations issued for the five-year deadline by the IRS where taxpayers could comply by distributing the entire IRA balance at any time within the five years and guidance previously issued by the IRS after the law was enacted.

Taxpayers were not prepared for this new interpretation and the IRS provided "transitional" relief in Notices 2022-53 and 2023-54. We appreciate this effort but believe that the IRS is providing transitional relief from a penalty that it has no legislative authority to assess in the first place.

Request

Congress intended to help taxpayers save for retirement in difficult economic times and the *SECURE Act* legislation clearly provided a 10-year deadline for receiving RMDs with no interim distributions. We have written to the IRS twice² but the IRS continues to claim that interim payments are required. We believe the IRS has overstepped its authority by shortening deadlines instead of extending them as Congress provided. We request that the committee clarify its legislative intent by contacting the IRS or by publishing a statement from its leadership.

Summary

Taxpayers and tax practitioners thank you for your consideration. We would be pleased to further discuss this issue with you or your staff. Please feel free to contact me at 214-749-2462 or at dcolmenero@meadowscollier.com or TXCPA Staff Liaison Patty Wyatt at 817-656-5100 or pwyatt@tx.cpa.

Sincerely,



David E. Colmenero, J.D., LL.M., CPA
Chair, Federal Tax Policy Committee
Texas Society of Certified Public Accountants

cc: Members, Senate Committee on Finance
Members, House Committee on Ways and Means
Texas Members of Congress
The Honorable Daniel Werfel, Commissioner, Internal Revenue Service
The Honorable Lily Batchelder, Assistant Secretary (Tax Policy), Department of the Treasury
Mr. William Paul, Acting Chief Counsel, Principal Deputy Chief Counsel, Internal Revenue Service
Jan Lewis, CPA, Chair, American Institute of CPAs Tax Executive Committee

² [Federal Tax Policy Comments 4-11-23 to Treasury-IRS RMDs Inherited IRAs](#), [Federal Tax Policy Comments 7-14-22 to IRS Rettig Proposed Regs RMDs Inherited IRAs](#).