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SECURE 2.0: IRS Issues New Guidance on RMDs

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On July 14, 2023, the Internal Revenue Service (the "IRS") issued Notice 2023-54 (the "Notice"), providing much-welcomed guidance and transition relief relating to certain required minimum distributions (RMDs). Specifically, the Notice provides the following:

1. Relief for the change in the required beginning date (RBD) for RMDs under SECURE 2.0;
2. Guidance for certain RMDs for 2023; and
3. Extension of the applicability date of the final RMD regulations.

Relief Relating to Change in Required Beginning Date Under Secure 2.0

The Notice provides relief for qualified plan participants who mistakenly receive a plan distribution thought to be an RMD, but which is not an RMD because of SECURE 2.0's change to the RBD. As background, under SECURE 2.0 individuals who turn age 72 in 2023 now have an RBD of April 1, 2025, not April 1, 2024 (which would have been the case under prior law). The Notice provides that the IRS is extending the 60-day rollover period for plan participants (or surviving spouses) who mistakenly receive a distribution, and that they have until September 30, 2023, to rollover their distribution to an IRA or qualified plan.

Further, plans will not be considered to have failed to satisfy the requirements of Internal Revenue Code (the "Code") Sections 401(a)(31), 402(f), and 3405(c) merely because of a failure to treat these distributions as eligible rollover distributions.

Guidance for Certain RMDs for 2023

The Notice also extends the relief provided in Notice 2022-53. As background, SECURE 1.0 added a new "10-Year Rule," which requires that following a plan participant's death, the plan must distribute all amounts from the participant's account within ten years.

On February 24, 2022, the IRS issued proposed RMD regulations, which provide that in the case of a participant who dies after their RBD, the designated beneficiaries not only had to satisfy the 10-Year Rule but also the "At Least As Rapidly Rule." That rule provides that if the participant dies after their RBD, the RMDs for years after their death must be based on the longer of their life or their beneficiary's life. This requirement created issues for defined contribution plans that interpreted the "10-Year Rule" as a replacement for the "At Least As Rapidly Rule." Since the proposed RMD regulations state that the final regulations would apply retroactively to the 2022 calendar year, designated beneficiaries who thought they had ten years to comply with RMD requirements could have been subject to a 50% excise tax for missed RMD under the "At Least As Rapidly Rule."

In Notice 2022-53, the IRS provided relief that excise taxes and tax disqualification would not apply to failures by bene-

ficiaries to take annual distributions under the 10-Year Rule for 2021 and 2022. In the Notice, the IRS extended this relief for the 2023 calendar year.

Applicability Date of Final Regulations

The Notice provides that the final regulations regarding RMDs will apply for calendar years beginning no earlier than 2024. This amounts to a one-year extension of the applicability stated in Notice 2023-53. This extension is welcome news, given the changes in the RMD rules under SECURE 2.0.

Conclusion

We will continue to keep you advised of any updates regarding SECURE 2.0. We also remain available to consult with you on applying the new RMD rules and other changes enacted under SECURE 2.0.

TRUCKER HUSS WEBINAR: Demonstrating Effective Qualified Plan Governance

PRESENTERS: Robert Gower and Zachary T. Isenhour

DATE: Tuesday, October 17, 2023 10:00 – 11:00 AM PDT

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- Committee charter fundamentals
- Minutes and other documentation
- Delegations and service providers
- Cybersecurity

Questions you would like addressed during the webinar are welcome — send to: webinars@truckerhuss.com

This program is eligible for MCLE credit.

The Trucker ♦ Huss Benefits Report is published monthly to provide our clients and friends with information on recent legal developments and other current issues in employee benefits. Back issues of Benefits Report are posted on the Trucker ♦ Huss web site (www.truckerhuss.com).

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