

**SECURE ACT/SECURE 2.0**

**Summary of Provisions Regarding Required Distributions from Defined Contribution Plans**

<b><i>Effective Date of SECURE Act and Proposed Regulations</i></b>	
Notice 2022-53	Proposed Regs apply for purposes of determining RMDs for distribution calendar years beginning no earlier than 2023
Notice 2023-54	Proposed Regs apply for purposes of determining RMDs for distribution calendar years beginning no earlier than 2024
Effective Date	SECURE Act applies if the employee dies <i>on or after</i> Jan 1, 2020 (“Effective Date”). If employee dies <i>before</i> the Effective Date, then SECURE Act applies to distributions to beneficiaries of the employee’s designated beneficiaries who are alive on the Effective Date. <a href="#">Prop. Reg. § 1.401(a)(9)-1(b)(2)(i)</a>
	If employee died before Jan 1, 2020, and the (oldest) designated beneficiary is still alive as of Jan 1, 2020, then the SECURE Act will apply with respect to the beneficiaries of the (oldest) designated beneficiary <a href="#">Prop. Reg. § 1.401(a)(9)-1(b)(2)(iii)(A), (B)</a> If employee’s surviving spouse also died before Jan 1, 2020, while waiting to begin distributions on the employee’s required beginning date, and the <i>spouse’s</i> designated beneficiary is still alive as of Jan 1, 2020, then the SECURE Act will apply with respect to the beneficiaries of the designated beneficiary <a href="#">Prop. Reg. § 1.401(a)(9)-1(b)(2)(iii)(A)</a>
	If the employee died before Jan 1, 2020, there are multiple designated beneficiaries (see-through trust, etc.), and the <i>oldest</i> designated beneficiary is still alive as of Jan 1, 2020, then the SECURE Act will apply on the death of the oldest designated beneficiary <a href="#">Prop. Reg. § 1.401(a)(9)-1(b)(2)(iii)(B)</a>

<b><i>Required Beginning Date &amp; Other Applicable Dates</i></b>	
Required Beginning Date (RBD) [ <a href="#">SECURE 2.0</a> ]	April 1 of calendar year following later of calendar year in which the employee attains the <b>applicable age</b> or the calendar year in which the employee retires from employment with employer maintaining the plan <a href="#">IRC 401(a)(9)(C)(i) [SECURE 2.0]</a>
	<b>Applicable age:</b> Before Jan 1, 2020.....70 ½ (prior law) After Dec 31, 2019 and before Jan 1, 2023..... 72 After Dec 31, 2022 and before Jan 1, 2033..... 73 After Dec 31, 2032..... 75 <a href="#">IRC 401(a)(9)(C)(v) [SECURE 2.0]</a>
– 5% Owner	If an employee is a 5% owner of the employer maintaining the plan, then the RBD is based on the applicable age, even if the employee has not yet retired.
First Distribution Calendar Year	<u>Employee</u> : Calendar year in which employee attains applicable age <u>Beneficiary</u> : Calendar year <i>following</i> calendar year of employee’s death
Time for Distributions (Employee)	<u>First Distribution Calendar Year</u> : Due on RBD <u>Subsequent Distribution Calendar Years</u> : Due by December 31 (i.e., if employee turns 72 in 2022, RBD is April 1, 2023, next distribution due December 31, 2023, then December 31, 2024, etc.) <a href="#">Prop. Reg. §1.401(a)(9)-5(a)(2)(ii), (3)</a>

Time for Distributions (Beneficiary)	<p><u>First Distribution Calendar Year (i.e., Calendar Year <i>Following</i> Employee's Death):</u> April 1 of calendar year following first distribution calendar year</p> <p><u>Subsequent Distribution Calendar Years:</u> Due by December 31 of that distribution calendar year (i.e., if employee dies in 2022, first distribution due April 1, 2024, then December 31, 2024, then December 31, 2025, etc.)</p> <p>Prop. Reg. §1.401(a)(9)-5(a)(2)(iii), (3)</p>
Timing for Identifying Designated Beneficiaries	<p>A person is a beneficiary taken into account for RMD purposes of if:</p> <ol style="list-style-type: none"> <li>1. Designated as a beneficiary under the plan as of the employee's death and</li> <li>2. The designation remains effective as of September 30 of the calendar year following the employee's death, i.e., <u>not</u> including any: <ul style="list-style-type: none"> <li>o Beneficiary who predeceases employee</li> <li>o Beneficiary who receives distribution of the beneficiary's entire interest in the plan by September 30</li> </ul> </li> </ol> <p>Prop. Reg. §1.401(a)(9)-4(c)</p>
Documentation Provided to Plan Administrator	<p><u>Trusts:</u></p> <ul style="list-style-type: none"> <li>• If employee still alive, copy of trust or list of beneficiaries must be provided before January 1 of the distribution calendar year Prop. Reg. §1.401(a)(9)-4(h)(2)</li> <li>• After employee's death, list of beneficiaries must be provided no later than September 30, or copy of trust no later than October 31, of calendar year following employee's death Prop. Reg. §1.401(a)(9)-4(h)(3)</li> </ul> <p><u>Disability/Chronic Illness:</u></p> <ul style="list-style-type: none"> <li>• Documentation of disability or chronic illness must be provided to plan administrator no later than October 31 of calendar year following employee's death Prop. Reg. §1.401(a)(9)-4(e)(7)</li> </ul>

<b>Rules for Determining Required Minimum Distributions</b>	
RMDs In General	<p>Required Minimum Distributions (RMDs) are determined based on two independent tests:</p> <ul style="list-style-type: none"> <li>• <u>Life Expectancy:</u> If a life expectancy rule applies, the employee/beneficiary must receive annual distributions based on the quotient of the prior year's account balance divided by the remaining life expectancy based on IRS tables (<i>see IRS Pub 590-B, Appendix B</i>)</li> <li>• <u>5- or 10-Year Rule:</u> If a 5- or 10-year rule applies, then the entire account balance must be distributed at the end of the 5<sup>th</sup> or 10<sup>th</sup> calendar year after the <i>applicable date</i>, whether or not a life expectancy rule also applies. <ul style="list-style-type: none"> <li>o <u>Applicable Date:</u> The applicable date is not always the employee's death. In certain situations, new rules under the SECURE Act require distribution of the entire account balance 10 years after the death of an eligible designated beneficiary, or 10 years after a child of the employee attains age 21.</li> </ul> </li> </ul>
Calculating RMDs Based on Life Expectancy	<p>When distributions are based on life expectancy, required minimum distribution is the quotient calculated by dividing the</p> <ul style="list-style-type: none"> <li>• <u>Numerator:</u> Account balance as of December 31 (or other last valuation date) of the prior year</li> </ul>

	<ul style="list-style-type: none"> <li>• <b>Denominator:</b> “Applicable denominator” based on life expectancy tables (<i>see IRS Pub 590-B, Appendix B</i>) <ul style="list-style-type: none"> <li>○ Single Life (Table I) – for beneficiaries</li> <li>○ Joint Life and Last Survivor (Table II)– for married employees <i>only if</i> spouse is sole beneficiary and is 10 or more years younger than employee</li> <li>○ Uniform Life (Table III)– for other employees: nonmarried, married and spouse not more than 10 years younger, married but spouse not sole beneficiary</li> </ul> </li> </ul> <p>Prop. Reg. §1.401(a)(9)-5(a), (d)</p>
Time Limit for Distributing Entire Account Balance	<p>If the 5-year rule or 10-year rule apply, then the entire account balance must be distributed before the end of the 5<sup>th</sup> or 10<sup>th</sup> calendar year, respectively, after an applicable date (employee’s death, eligible beneficiary’s death, child attains age 21).</p> <ul style="list-style-type: none"> <li>• If the employee died before the required beginning date, then certain beneficiaries are <i>not required to take RMDs before</i> the year during which the entire account balance must be distributed</li> <li>• In other cases, a beneficiary may be required to receive life expectancy distributions during the first 4 or 9 years, then receive a distribution of the entire remaining balance in the 5<sup>th</sup> or 10<sup>th</sup> year.</li> </ul> <p>Prop. Reg. §1.401(a)(9)-3(c)</p>
No Credit for Overpayment	<p>Distributions in excess of RMD for a distribution calendar year do not generate a credit for RMDs in subsequent calendar years</p> <p>Prop. Reg. §1.401(a)(9)-5(a)(6)</p>
Penalty for Underpayment	<p>Failure to pay RMD results in excise tax of 25% of unpaid RMD amount (formerly 50%)</p> <p>IRC 4974(a) [SECURE 2.0]</p>
Ordinary Income	<p>All distributions (including RMDs) from the plan are ordinary income to the recipient (employee or beneficiary)</p> <p>IRC 72, 408(d)</p>

<b><i>Distribution Rules During Employee’s Lifetime</i></b>	
Calculating RMDs	<p>Annual RMDs determined according to employee’s life expectancy, i.e.:</p> <ul style="list-style-type: none"> <li>• Uniform life expectancy (Table III)</li> <li>• <i>BUT</i> Joint life and last survivor expectancy (Table II) employee is married and spouse is 10 or more years younger</li> </ul> <p>Prop. Reg. §1.401(a)(9)-2(a)</p> <p>Prop. Reg. §1.401(a)(9)-5(c)</p>
Qualified Charitable Distributions	<p>For each distribution calendar year, up to \$100,000 of Qualified Charitable Distributions (QCDs) are excluded from gross income of the employee, subject to the following limitations [IRC 408(d)(8)]:</p> <ul style="list-style-type: none"> <li>• To qualify, the distribution must be made directly by the plan trustee to a qualifying charity as identified in IRC 170(b)(1)(A) <ul style="list-style-type: none"> <li>○ <i>Excluding private foundations or donor-advised funds</i></li> </ul> </li> <li>• QCDs count towards the RMD for the distribution calendar year they are made—thereby shielding the taxpayer from ordinary income</li> <li>• The qualifying charity must provide contemporaneous written acknowledgment according to substantiation requirements in IRC 170(f)(8)</li> </ul>

	<ul style="list-style-type: none"> <li>The \$100,000 annual QCD allowance is reduced by the aggregate amount of deductible contributions (that have not already been applied to reduce a QCD allowance in a prior year) made after the taxpayer attains age <b>70 ½</b>—i.e., <u>not</u> the applicable age of 72, 73, 75, etc.</li> <li>QCD allowance indexed to inflation after 2023 under <b>SECURE 2.0</b></li> </ul>
One-Time Distribution to Charitable Annuity or Charitable Remainder Trust	A taxpayer (employee/beneficiary?) may make a one-time \$50,000 distribution directly from a retirement account (A) to a charitable remainder trust or (B) to a charity in exchange for a qualified annuity <a href="#">IRC 408(d)(8)(F)</a>
Early Distributions	<p>Certain early distributions are penalized:</p> <ul style="list-style-type: none"> <li>Employee must pay 10% additional tax on distributions <i>before</i> age 59 ½ (no penalty for distributions after age 59 ½)</li> </ul> <p>Exceptions to early distributions penalty (subject to limitations):</p> <ul style="list-style-type: none"> <li>Beneficiaries after employee's death</li> <li>Substantially equal periodic payments (see Notice 2022-6, Rev. Rul. 2002-62)</li> <li>Distributions to pay medical insurance (while unemployed)</li> <li>Distributions due to disability</li> <li>Distributions due to terminal illness</li> <li>Qualified higher education expenses</li> <li>Distributions for first home purchase</li> <li>Qualified reservist distributions</li> <li>Qualified birth or adoption</li> </ul> <p><a href="#">IRC 72(t)</a></p>
Calculating RMDs	<p>Annual RMDs determined according to employee's life expectancy, i.e.:</p> <ul style="list-style-type: none"> <li>Uniform life expectancy (Table III)</li> <li><i>BUT</i> Joint life and last survivor expectancy (Table II) employee is married and spouse is 10 or more years younger</li> </ul> <p><a href="#">Prop. Reg. §1.401(a)(9)-2(a)</a> <a href="#">Prop. Reg. §1.401(a)(9)-5(c)</a></p>

<b>Rules for Determining Required Minimum Distributions to Beneficiaries</b>		
<b>A. No Individual Designated</b>		
Multiple Beneficiaries (All or Nothing)	<p>If <i>any</i> non-individual is designated under the plan, the employee is treated as having <u>no</u> designated beneficiary (consider see-through trust rules, i.e., if a beneficiary of a see-through trust is a non-individual—and is not <i>disregarded</i> [see E. See-Through Trusts, below]—then the trust is treated as having no designated beneficiary)</p> <p><a href="#">Prop. Reg. §1.401(a)(9)-4(b)</a></p>	
Calculating RMDs (No Individual Designated)	<p>If employee dies <i>before</i> RBD: IRA distributed w/in 5 years (no annual RMDs, distribution deferred until 5<sup>th</sup> year) <a href="#">IRC 401(a)(9)(B)(ii)</a> <a href="#">IRC 401(a)(9)(H)(i)</a> <a href="#">Prop. Reg. §1.401(a)(9)-3(b)(2)</a></p>	<p>If employee dies <i>after</i> RBD: Annual RMDs according to employee's life expectancy (according to single life, Table I) <a href="#">IRC 401(a)(9)(B)(i)</a> <a href="#">Prop. Reg. §1.401(a)(9)-5(d)(1)(iii)</a></p>

– After First Distribution Calendar Year	N/A	For each subsequent year, reduce by 1 the life expectancy initially determined under Table I <a href="#">Prop. Reg. §1.401(a)(9)-5(d)(3)</a>
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<i>B. Designated Beneficiary (Non-“Eligible”)</i>		
SECURE Act Limits Stretch-Out Planning	Under prior law, RMDs to non-“eligible” designated beneficiaries were determined based on life expectancy. Under the SECURE Act, a 10-year rule applies	
Required Minimum Distributions (Distribution Period, Frequency)	<p><u>If employee dies <i>before</i> RBD:</u>            10-year default distribution period  <b>(no annual RMDs</b>, distribution deferred until 10<sup>th</sup> year)            IRC 401(a)(9)(B)(ii)            IRC 401(a)(9)(H)(i)            Prop. Reg. §1.401(a)(9)-3(c)(3)</p>	<p><u>If employee dies <i>after</i> RBD:</u>            Annual RMDs based on longer of life expectancy of the (oldest) designated beneficiary or employee (both according to single life, Table I)            IRC 401(a)(9)(B)(ii)            IRC 401(a)(9)(H)(i)            Prop. Reg. §1.401(a)(9)-2(a)(2)            Prop. Reg. §1.401(a)(9)-5(d)(1)(ii)            Prop. Reg. §1.401(a)(9)-5(f)(1)(i)</p> <p>BUT Subject to applicable 10-year limits (i.e., first 9 years RMD calculated based on life expectancy, but in 10<sup>th</sup> year entire remaining balance is distributed)            Prop. Reg. §1.401(a)(9)-5(e)</p>
– After First Distribution Calendar Year	N/A	<p>For each subsequent year, reduce by 1 the life expectancy initially determined under Table I (whether using life expectancy of employee or designated beneficiary)            Prop. Reg. §1.401(a)(9)-5(d)(3)</p>
– RMDs Following Designated Beneficiary’s Death	Distribution period does not change, RMDs continue to be based on 10-year rule or life expectancy determined above	
– Safe Harbor from Excise Tax	<p>Taxpayer will not be penalized for not making specified distributions for calendar years 2020-2023 for which 10-year <i>deferral</i> arguably applies under 401(a)(9)(H) but for which proposed regulations require annual life expectancy distributions            IRS Notice 2022-53, IRS Notice 2023-54</p>	

<i>C. Eligible Designated Beneficiary</i>			
Eligible Designated Beneficiary	<p>Eligible Designated Beneficiary (“EDB”) includes the following, determined at the time of the employee’s death:</p> <ul style="list-style-type: none"> <li>• Surviving spouse of employee</li> <li>• Child of employee who has not reached the age of majority (younger than age 21)</li> <li>• Disabled:</li> <li>• Chronically ill:</li> <li>• Not more than 10 years younger than the employee</li> </ul> <p>Prop. Reg. §1.401(a)(9)-4(e)</p>		
– Disabled	<ul style="list-style-type: none"> <li>○ Medically determinable physical or mental impairment that results in severe functional limitations expected to be long-continued, indefinite, or result in death or disabled under Social Security statutes</li> <li>○ Adults (18 or older): Do not qualify unless unable to engage in substantial gainful activity as a result of disability</li> </ul> <p>Prop. Reg. §1.401(a)(9)-4(e)(4)</p>		
– Chronically Ill	<ul style="list-style-type: none"> <li>○ Loss of functional capacity, over period of at least 90 days requires substantial assistance or supervision to perform daily living activities or protect from threats to health and safety (i.e., meets definition of IRC §7702B(c)(2)), as certified by a licensed physician</li> </ul> <p>Prop. Reg. §1.401(a)(9)-4(e)(5)</p>		
– Non-EDB Beneficiary (All or Nothing)	<p>If any non-eligible beneficiary is designated under the plan, the employee is treated as having <u>no</u> eligible designated beneficiary (consider see-through trust rules, i.e., if a beneficiary of a see-through trust is non-eligible—and is not <i>disregarded</i>—then the trust is treated as having no eligible designated beneficiary)</p> <p>Prop. Reg. §1.401(a)(9)-4(e)(2)(i)</p>		
	<p><u>Exception for Minor Children:</u> If a beneficiary is a child of the employee who has not reached the age of majority, then employee is treated as having an eligible designated beneficiary even if employee has other non-eligible designated beneficiaries</p> <p>Prop. Reg. §1.401(a)(9)-4(e)(2)(ii)</p>		
– Calculating RMDs (Other than Sole Beneficiary Surviving Spouse)	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p><u>If employee dies <i>before</i> RBD:</u> Applicable denominator is the (oldest) EDB’s remaining life expectancy (according to single life, Table I)</p> <p>Prop. Reg. §1.401(a)(9)-3(c)(4), (5)(i)(C) Prop. Reg. §1.401(a)(9)-5(d)(2) Prop. Reg. §1.401(a)(9)-5(f)(1)(i)</p> <p>Plan may apply 10-year rule to EDBs or allow EDB to elect into 10-year rule (irrevocable once made)</p> <p>Prop. Reg. §1.401(a)(9)-3(c)(4), (5)(ii)</p> <p>Subject to applicable 10-year limits (i.e., entire account must be distributed within 10 years following</p> </td> <td style="width: 50%; vertical-align: top;"> <p><u>If employee dies <i>after</i> RBD:</u> Applicable denominator is the longer of the (oldest) EDB’s remaining life expectancy or the employee’s life expectancy (both according to single life, Table I)</p> <p>Prop. Reg. §1.401(a)(9)-5(d)(1)(ii) Prop. Reg. §1.401(a)(9)-5(f)(1)(i)</p> <p>Subject to applicable 10-year limits (i.e., entire account must be distributed within 10 years following death of oldest eligible designated beneficiary)</p> <p>Prop. Reg. §1.401(a)(9)-5(e)</p> </td> </tr> </table>	<p><u>If employee dies <i>before</i> RBD:</u> Applicable denominator is the (oldest) EDB’s remaining life expectancy (according to single life, Table I)</p> <p>Prop. Reg. §1.401(a)(9)-3(c)(4), (5)(i)(C) Prop. Reg. §1.401(a)(9)-5(d)(2) Prop. Reg. §1.401(a)(9)-5(f)(1)(i)</p> <p>Plan may apply 10-year rule to EDBs or allow EDB to elect into 10-year rule (irrevocable once made)</p> <p>Prop. Reg. §1.401(a)(9)-3(c)(4), (5)(ii)</p> <p>Subject to applicable 10-year limits (i.e., entire account must be distributed within 10 years following</p>	<p><u>If employee dies <i>after</i> RBD:</u> Applicable denominator is the longer of the (oldest) EDB’s remaining life expectancy or the employee’s life expectancy (both according to single life, Table I)</p> <p>Prop. Reg. §1.401(a)(9)-5(d)(1)(ii) Prop. Reg. §1.401(a)(9)-5(f)(1)(i)</p> <p>Subject to applicable 10-year limits (i.e., entire account must be distributed within 10 years following death of oldest eligible designated beneficiary)</p> <p>Prop. Reg. §1.401(a)(9)-5(e)</p>
<p><u>If employee dies <i>before</i> RBD:</u> Applicable denominator is the (oldest) EDB’s remaining life expectancy (according to single life, Table I)</p> <p>Prop. Reg. §1.401(a)(9)-3(c)(4), (5)(i)(C) Prop. Reg. §1.401(a)(9)-5(d)(2) Prop. Reg. §1.401(a)(9)-5(f)(1)(i)</p> <p>Plan may apply 10-year rule to EDBs or allow EDB to elect into 10-year rule (irrevocable once made)</p> <p>Prop. Reg. §1.401(a)(9)-3(c)(4), (5)(ii)</p> <p>Subject to applicable 10-year limits (i.e., entire account must be distributed within 10 years following</p>	<p><u>If employee dies <i>after</i> RBD:</u> Applicable denominator is the longer of the (oldest) EDB’s remaining life expectancy or the employee’s life expectancy (both according to single life, Table I)</p> <p>Prop. Reg. §1.401(a)(9)-5(d)(1)(ii) Prop. Reg. §1.401(a)(9)-5(f)(1)(i)</p> <p>Subject to applicable 10-year limits (i.e., entire account must be distributed within 10 years following death of oldest eligible designated beneficiary)</p> <p>Prop. Reg. §1.401(a)(9)-5(e)</p>		

	death of oldest eligible designated beneficiary) <a href="#">Prop. Reg. §1.401(a)(9)-5(e)</a>	
– After First Distribution Calendar Year	For each subsequent year, reduce by 1 the life expectancy initially determined under Table I <a href="#">Prop. Reg. §1.401(a)(9)-5(d)(3)</a>	For each subsequent year, reduce by 1 the life expectancy initially determined under Table I (whether using life expectancy of employee or designated beneficiary) <a href="#">Prop. Reg. §1.401(a)(9)-5(d)(3)</a>
– 10-Year Rule (Following <i>EDB</i> 's Death)	If the deceased employee's designated beneficiary is an EDB, then the entire interest of the employee under the plan must be distributed by the end of the tenth calendar year following the death of the (oldest) <i>eligible designated beneficiary</i> <a href="#">Prop. Reg. §1.401(a)(9)-5(e)(3)</a>	
– 10-Year Rule (After Child Attains Age 21)	If the deceased employee's designated beneficiary is a child under age 21, then the entire interest of the employee under the plan must be distributed by the end of the tenth calendar year following the child's 21 <sup>st</sup> birthday. <a href="#">Prop. Reg. §1.401(a)(9)-5(e)(4)</a>	

<i>D. Surviving Spouse (as Sole Beneficiary)</i>		
Early Distributions	Following employee's death, surviving spouse may receive distributions before age 59 ½ (taxable as ordinary income, but without penalty) <a href="#">IRC 72(t)(2)(A)(ii)</a>	
Alternative Options on Employee's Death (in General)	<ol style="list-style-type: none"> <li><u>Elect to be Owner</u>. Surviving spouse may be treated as if they were the employee with respect to the plan (Under SECURE 2.0, expanded to include all defined benefit plans—not only IRAs)</li> <li><u>Rollover to Own Account</u>. Surviving spouse may “roll over” distributions tax-free to his or her own IRA (or certain other retirement plans) within 60 days of receipt <ul style="list-style-type: none"> <li>○ But may not roll over RMDs</li> </ul> </li> <li><u>Inherited IRA</u>. Surviving spouse may be treated as beneficiary of deceased employee's IRA</li> </ol> <a href="#">IRS Pub 590-A, B</a>	
Calculating RMDs (Surviving Spouse is Sole Beneficiary)	<p><u>If employee dies before RBD:</u> OPTION 1: Spouse may elect to be treated as owner of the plan, applicable denominator is <i>spouse's</i> life expectancy (according to uniform life, Table III)—may wait until <i>spouse's</i> RBD to begin distributions <a href="#">IRC 401(a)(9)(B)(iv)</a> [<a href="#">SECURE 2.0</a>]</p> <p>OPTION 2: If spouse rolls over to her own plan, applicable denominator is <i>spouse's</i> life expectancy (according to uniform life, Table III)—may wait until <i>spouse's</i> RBD to begin distributions <a href="#">Prop. Reg. §1.402-2(j)</a></p>	<p><u>If employee dies after RBD:</u> Same as death before RBD, except may use employee's life expectancy (according to single life, Table I) if employee was younger than surviving spouse <a href="#">Prop. Reg. §1.401(a)(9)-5(d)(1)(ii)</a></p>



	<p>OPTION 3: If inherited plan, applicable denominator is <i>spouse's</i> life expectancy (according to single life, Table I, recalculated annually as of the spouse's birthday each calendar year)—may wait until <i>employee's</i> RBD to begin distributions</p> <p>Prop. Reg. §1.401(a)(9)-4(e)(1)(i)  Prop. Reg. §1.401(a)(9)-5(d), (d)(3)(iv)  Prop. Reg. §1.401(a)(9)-3(d)</p> <p>Subject to applicable 10-year limits (i.e., entire account must be distributed within 10 years following <i>spouse's</i> death)</p> <p>Prop. Reg. §1.401(a)(9)-5(e)(3)</p>	
After First Distribution Calendar Year	<p>For each subsequent year, redetermine life expectancy (using Table I) based on age of surviving spouse as of surviving spouse's birthday in that calendar year</p> <p>Prop. Reg. §1.401(a)(9)-5(d)(3)</p>	<p>For each subsequent year, redetermine life expectancy (using Table I) based on age of surviving spouse as of surviving spouse's birthday in that calendar year</p> <p>Prop. Reg. §1.401(a)(9)-5(d)(3)</p>

E. See-Through Trusts	
See-Through Trust	<p>If following requirements met, beneficiaries of the trust (and not the trust itself) are treated as designated beneficiaries:</p> <ol style="list-style-type: none"> <li>1. Trust is valid under state law (or would be except that there is no corpus)</li> <li>2. Trust is irrevocable or become irrevocable on employee's death</li> <li>3. The beneficiaries are identifiable from the trust instrument (but do not need to be specifically named)</li> <li>4. Documentation requirements must be satisfied</li> </ol> <p>Prop. Reg. §1.401(a)(9)-4(f)(1)(i), (2)</p>
– Powers of Appointment Under Prior Law	<p>(A) Powers of appointment in accumulation trusts needed to be limited to identifiable appointees and (B) only appointees younger than the designated beneficiary of the accumulation trust were considered identifiable</p>
– Identifiability of Designated Beneficiaries where Trust Grants Power of Appointment (SECURE Act)	<ul style="list-style-type: none"> <li>○ If power of appointment is exercised in favor of identifiable individuals or restricted so that it may only be exercised in favor of identifiable individuals by September 30 of the calendar year following the employee's death, then those identifiable individuals are taken into account as beneficiaries of the employee.</li> <li>○ If not exercised, then takers in default are taken into account as beneficiaries of the employee.</li> </ul> <p>Prop. Reg. §1.401(a)(9)-4(f)(5)(ii)(A)</p>
– Identifiability of Designated Beneficiaries where Trust Terms are	<ul style="list-style-type: none"> <li>○ Beneficiaries added or removed on or before September 30 (of calendar year following employee's death) will be considered as designated beneficiaries for purposes of the RMD for the first distribution calendar year.</li> </ul>

Modified After Death	<ul style="list-style-type: none"> <li>Modification by September 30 (of calendar year following employee's death) will not cause the trust to fail to satisfy identifiability requirements <i>Prop. Reg. §1.401(a)(9)-4(f)(5)(iii)</i></li> </ul>	
– Conduit Trust	<p>A see-through trust that provides that all distributions from the deceased employee's plan, upon receipt by the trustee, must be paid directly to or for the benefit of designated beneficiaries <i>Prop. Reg. §1.401(a)(9)-4(f)(1)(ii)(A)</i></p>	
– Accumulation Trust	<p>Any see-through trust that is not a conduit trust <i>Prop. Reg. §1.401(a)(9)-4(f)(1)(ii)(B)</i></p>	
– Designated Beneficiaries (Limited)	<ul style="list-style-type: none"> <li>Tier 1: Any beneficiary (of a conduit trust) who could receive amounts in the trust representing the employee's interest in the plan that are <u>not</u> contingent upon, nor delayed until, the death of another beneficiary who did not predecease the employee <i>Prop. Reg. §1.401(a)(9)-4(f)(3)(i)(A)</i></li> <li>Tier 2: Any beneficiary of an accumulation trust that could receive amounts (accumulated) in the trust representing the employee's interest in the plan that were not owed to tier 1 beneficiaries. <i>Prop. Reg. §1.401(a)(9)-4(f)(3)(i)(B)</i></li> </ul>	
– Disregarded Beneficiaries (Not Considered Designated Beneficiaries)	<ul style="list-style-type: none"> <li>Tier 3: Any beneficiary (including trusts, charities, etc.) of an accumulation trust who could receive amounts from the trust that represent the employee's interest in the plan solely because of the death of a tier 2 beneficiary <i>Prop. Reg. §1.401(a)(9)-4(f)(3)(ii)</i> (By implication) Any beneficiary (including trusts, charities, etc.) of a conduit trust who receives amounts in the trust representing the employee's interest that <u>are</u> contingent upon or delayed until the death of another beneficiary who did not predecease the employee <i>Prop. Reg. §1.401(a)(9)-4(f)(3)</i></li> </ul>	
Calculating RMDs	<p>RMDs according to life expectancy/10-year/5-year rule based on identification of designated beneficiaries after applying see-through trust rules <i>Prop. Reg. §1.401(a)(9)-4(f)(1)(i),(3)(i)</i></p> <p>Subject to applicable 10-year limits <i>Prop. Reg. §1.401(a)(9)-5(e)</i></p>	<p>RMDs according to life expectancy based on identification of designated beneficiaries after applying see-through trust rules <i>Prop. Reg. §1.401(a)(9)-4(f)(1)(i),(3)(i)</i></p> <p>Subject to applicable 10-year limits <i>Prop. Reg. §1.401(a)(9)-5(e)</i></p>
SECURE Act Limits Separate Accounting	<p>Unlike prior law, separate trust accounts may be established for separate beneficiaries—allowing RMDs to be calculated based on each individual's life expectancy—only if the trust includes <b>disabled</b> or <b>chronically ill</b> beneficiaries, and satisfies the following requirements</p>	
Applicable Multi-Beneficiary Trusts	<p>An applicable multi-beneficiary trust ("AMB Trust") see-through trust with more than one beneficiary and with respect to which—</p> <ul style="list-style-type: none"> <li>All of the beneficiaries are designated beneficiaries and</li> <li>At least one of the beneficiaries is an eligible designated beneficiary who is disabled or chronically ill, as defined above (Prop. Reg. §1.401(a)(9)-4(e)(4), (5)) <i>Prop. Reg. §1.401(a)(9)-4(g)</i></li> </ul>	

<p>– Type I</p>	<p>Considered Type I if the terms of the trust provide that it is to be divided immediately upon the death of the employee into separate trusts for each beneficiary  Prop. Reg. §1.401(a)(9)-4(g)(2)</p>
<p>➤ Separate Accounting for Type I AMB Trusts (Only)</p>	<p>RMD rules may be applied separately with respect to separate interests of the beneficiaries reflected in the separate trusts of each beneficiary of a Type I AMB Trust provided that the following separate accounting rules are satisfied:</p> <ul style="list-style-type: none"> <li>A. Trustee must allocate post-death distributions with respect to a beneficiary’s interest to the separate account of the beneficiary receiving that distribution</li> <li>B. Trustee must allocate post-death investment gains and losses, contributions, etc., for the period prior to establishment of separate accounts on a pro rata basis in a reasonable and consistent manner.</li> </ul> <p>Prop. Reg. §1.401(a)(9)-8(a)(1)(iii)(B), (2)</p>
<p>– Type II</p>	<p>Considered Type II if</p> <ul style="list-style-type: none"> <li>A. The trust terms identify one or more individuals, each of whom is disabled or chronically ill, as defined above (Prop. Reg. §1.401(a)(9)-4(e)(4), (5))</li> <li>B. The trust terms provide that no individual, other than an individual who is disabled or chronically ill, has any right to the employee’s interest in the plan until the death of the disabled or chronically ill beneficiaries.</li> </ul> <p>Prop. Reg. §1.401(a)(9)-4(g)(3)</p>
<p>➤ Oldest Beneficiary of Type II Trust</p>	<p>For a Type II AMB Trust, only disabled or chronically ill beneficiaries are taken into account for purposes of determining the oldest beneficiary to calculate RMDs.  Prop. Reg. §1.401(a)(9)-4(f)(1)(ii)</p>