

SECURE Act

Frequently Asked Questions (FAQs)

The Setting Every Community Up for Retirement Enhancement (SECURE) Act was passed on December 20, 2019, which changed clients' retirement planning for themselves and their beneficiaries. Subsequently, the Treasury Department released proposed regulations in February 2022 to clarify required minimum distribution (RMD) obligations for beneficiaries. Below, you'll find answers to questions we have been asked about key provisions of the SECURE Act and subsequent guidance.

➤ Provisions Related to IRAs

What is the impact to contribution rules for traditional IRAs?

Prior to the SECURE Act, the age cap was 70½, and an individual was unable to contribute to a traditional IRA the year he/she attains age 70½. Section 107 of the SECURE Act repeals the maximum age for traditional IRA contributions. Starting in 2020, any working individual can contribute to a traditional IRA regardless of age.

Example:

- Beth is 71 and still has earned income working part time.
 - To minimize her taxable income, she can make a deductible contribution into her traditional IRA (assuming she is under the income phaseout ranges).
 - If Beth is a high-income earner who has earnings higher than the income phaseout ranges for traditional IRA and Roth IRA contributions, the elimination of the age cap expands opportunities for back-door Roth IRA contributions for older clients.

Note: The amount of a qualified charitable distribution (QCD) can be reduced by the deductible amount of IRA contributions made after age 70½, which is the anti-abuse provision.

What is the new SECURE Act rule regarding “compensation” for IRA contributions based on non-tuition fellowship and stipend payments?

For 2020 and moving forward, the SECURE Act stipulates that taxable amounts to aid in the pursuit of graduate or postdoctoral study count as compensation for IRA contribution purposes. Examples are fellowship, stipend, or similar payments, thus making it easier for individuals receiving such payments to save through an IRA. Check with the student's program to determine if the payment will qualify.

What is the new SECURE Act rule regarding the use of IRA funds for the birth or adoption of a child?

Section 113 of the SECURE Act allows the distribution of up to \$5,000 penalty-free for the birth or adoption of a child. Such distributions can also be repaid and treated as a rollover.

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> Provisions Related to Required Minimum Distributions (RMDs)

What changes were made to the inherited IRA and inherited Roth IRA rules?*

The SECURE Act expanded categories of beneficiaries by adding a third—eligible designated beneficiaries. The categories are:

1. Non-designated beneficiaries

- Estate of IRA owner
- Charity
- Non-see-through trust

2. Designated beneficiaries

- Individuals who are not eligible designated beneficiaries
- See-through trusts

3. Eligible designated beneficiaries

- A surviving spouse
- Minor child of the IRA owner—until age of majority
- Disabled beneficiary (within the meaning of IRC 72(m)(7))
- Chronically ill individual (within the meaning of IRC 7702B(c)(2))
- Individual not more than 10 years younger than the IRA owner

Each category has defined inherited IRA and inherited Roth IRA distribution rules. The following FAQs will discuss the rules for each category.

What are the inherited IRA and inherited Roth IRA rules for a non-designated beneficiary?

The SECURE Act did not change the inherited IRA and/or inherited Roth IRA rules for **non-designated beneficiaries**. Distribution requirements depend on whether the IRA owner dies before or after the required beginning date (RBD), which is April 1 of the year following the year the IRA owner attains age 72.

- If an IRA owner dies before the RBD:
 - Funds must be distributed by 12/31 of the fifth year following the year of death.
- If an IRA owner dies on or after the RBD:
 - Funds may be distributed according to the IRA owner's remaining life expectancy.

What are the inherited IRA and inherited Roth IRA rules for a designated beneficiary?*

A **designated beneficiary** must distribute the entire balance of an inherited IRA and/or inherited Roth IRA by 12/31 of the tenth year following the IRA owner's death. Distribution requirements depend on whether the IRA owner dies before, on, or after the required beginning date (RBD), which is April 1 of the year following the year the IRA owner attains age 72.

(cont.)

**Remember—the new rules apply when an IRA owner dies on or after 1/1/20.*

➤ Provisions Related to Required Minimum Distributions (RMDs) (cont.)

- If an IRA owner dies before the RBD:
 - Funds must be distributed by 12/31 of the tenth year following the year of death.
- If an IRA owner dies on or after the RBD:
 - The designated beneficiary must take annual distributions.
 - The funds must be distributed completely by 12/31 of the tenth year following the year of death.

Examples:

1. **Owner dies before RBD:** Mom, a 70-year-old Roth IRA owner, dies in 2020, and listed her 44-year-old son, Bob, as beneficiary. Bob must distribute the inherited Roth IRA by 12/31/30—the tenth year following Mom's death.
2. **Owner dies after RBD:** Dad, a 78-year-old traditional IRA owner, dies in 2020, and listed his 52-year-old daughter, Mary, as beneficiary. Mary must take annual inherited RMDs in years 1–9 AND liquidate the entire inherited IRA by 12/31/30 (the tenth year following Dad's death).

What are the inherited IRA and inherited Roth IRA rules for an eligible designated beneficiary?*

An **eligible designated beneficiary** may distribute the inherited IRA and/or inherited Roth IRA over the beneficiary's life expectancy. If, however, the beneficiary is a minor child, distributions can be distributed over the beneficiary's life expectancy; however, upon reaching the age of majority, the 10-year rule then applies. The proposed regulations have clarified the age of majority as age 21.

Example:

1. Sue, a 50-year-old IRA owner, dies in 2020, and listed her 10-year-old daughter, Amy, as beneficiary. Amy can take life expectancy distributions through the age of majority. Once attaining the age of majority, the 10-year rule would apply as of the date Amy attains the age of majority.
2. John, a 65-year-old IRA owner, lists his 56-year-old sister, Mary, as beneficiary. Because Mary is not more than 10 years younger than John, she will be able to inherit the IRA and take the distributions over her life expectancy upon John's death.

What are the inherited IRA and inherited Roth IRA rules for a second-generation beneficiary if the designated beneficiary, under the 10-year rule, dies?*

If an IRA owner dies, the **designated beneficiary** must distribute the entire balance of an inherited IRA and/or inherited Roth IRA by 12/31 of the tenth year following the IRA owner's death. If the designated beneficiary subsequently dies before the end of the tenth year, the second-generation beneficiary must still distribute the entire balance by 12/31 of the tenth year following the IRA owner's death. The rule does not re-start the 10-year period.

Example:

Mom, a 78-year-old Roth IRA owner, dies in 2020, and listed her 55-year-old son, Bob, as beneficiary. Bob must distribute the inherited Roth IRA by 12/31/30—the tenth year following Mom's death. Bob dies in 2026 while taking required minimum distributions. The 10-year rule does not re-start for Bob's beneficiary. Bob's beneficiary must continue taking distributions and fully distribute the balance by 12/31/30.

(cont.)

**Remember—the new rules apply when an IRA owner dies on or after 1/1/20.*

➤ Provisions Related to Required Minimum Distributions (RMDs) (cont.)

What are the inherited IRA and inherited Roth IRA rules for a second-generation beneficiary if the eligible designated beneficiary, taking life expectancy distributions, dies?*

An IRA owner dies and an **eligible designated beneficiary** elects to distribute the inherited IRA and/or inherited Roth IRA over the beneficiary's life expectancy. If the eligible designated beneficiary then dies, the second-generation beneficiary must now distribute the entire balance by 12/31 of the tenth year following the eligible designated beneficiary's death.

Example:

John, a 65-year-old IRA owner, lists his 56-year-old sister, Mary, as beneficiary. John dies in 2020, and Mary elects to take distributions over her life expectancy as she is not more than 10 years younger than John. Mary names her daughter, Beth, as a second-generation beneficiary and then dies in 2030. Beth would be required to fully distribute the entire balance by 12/31 of 2040, the tenth year following the eligible designated beneficiary's death. Beth must also take annual distributions based on Mary's (her mom's) life expectancy.

Scenario for Before and After the SECURE Act

What are the inherited IRA and inherited Roth IRA rules for a second-generation beneficiary if the IRA owner died prior to 12/31/19, the beneficiary elected to take distributions over his/her life expectancy, and then died after 1/1/20?

If an IRA owner died prior to 12/31/19, the beneficiary may elect to distribute the inherited IRA and/or inherited Roth IRA over his/her life expectancy. If the beneficiary elected to take distributions over his/her life expectancy and subsequently dies on 1/1/20 or later, the second-generation beneficiary must distribute the entire balance by 12/31 of the tenth year following the beneficiary's death and continue to take annual distributions based on the original beneficiary's life expectancy.

Example:

Mom owned an IRA and died in 2015. Her daughter, Mary, elected to distribute the inherited IRA over her life expectancy. Mary names her son, John, as a second-generation beneficiary. Mary subsequently dies in 2020. John would be required to fully distribute the entire balance by 12/31/30, the tenth year following the beneficiary's death and take annual distributions based on Mary's life expectancy.

What are the inherited IRA and inherited Roth IRA rules for a second-generation beneficiary if the IRA owner died prior to 12/31/19, the beneficiary elected annuitization (Period Certain), and then died after 1/1/20?

If the IRA owner died prior to 12/31/19, the beneficiary may have elected to distribute an Individual Retirement Account (IRA) over his/her lifetime. If the beneficiary elected lifetime annuitization and subsequently dies on 1/1/20 or later, the second-generation beneficiary must distribute the entire balance by 12/31 of the tenth year following the beneficiary's death. Pacific Life will commute any remaining payments to the second-generation beneficiary.

Example:

If this were an IRA and Mary had annuitized the payments over a period that matched her life expectancy, John could continue to receive those payments, which may extend longer than 10 years.

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➤ Provisions Related to Required Minimum Distributions (RMDs) (cont.)

Do these new rules also apply to beneficiaries of nonqualified annuities?

The new rules do not apply to nonqualified annuities, so beneficiaries can still stretch the distributions over their life expectancies.

Which IRA owners can take advantage of the new required beginning date (RBD) age of 72?

Owners of a traditional IRA, SEP-IRA, and/or SIMPLE IRA who reached age 70½ on 1/1/20 or later do not need to start RMDs until April 1 of the year following the year they turn age 72.

Example:

Sal was born on 7/1/1949 (making him exactly age 70½ on January 1, 2020). Sal does not need to start RMDs until age 72.

Are qualified charitable distributions (QCDs) affected by the new RBD age?

The QCD age of 70½ did not change even though the RMD age did. Clients can still make a nontaxable distribution from their IRAs at age 70½ directly to charity.

Opportunity, plus a note of caution:

QCDs are allowed only from IRAs and not employer-sponsored plans. For clients who want to reduce the amount of impending RMDs and are charitably inclined, they can roll over some or all of their plan account balances to an IRA to execute a QCD. Once clients reach age 72, a QCD will count toward satisfying the RMD.

Note, however, if clients older than age 70½ are still working and making deductible IRA contributions, this will reduce the amount of allowable QCD, which is the anti-abuse provision.

➤ Provisions Related to Annuities

Did the SECURE Act make it easier for plan sponsors to offer annuities under the “Fiduciary Safe Harbor for Selecting Annuity Providers” provision?

The SECURE Act provided four points of additional guidance to the Department of Labor (DOL) regulations that already provide a safe harbor for a fiduciary to satisfy the “prudent person” requirement under the Employee Retirement Income Security Act of 1974 (ERISA) when selecting an annuity provider for defined contribution plans. This guidance provides clarification on the plan sponsor’s fiduciary requirements in discharging its duties in the interest of participants and beneficiaries.

What happens to existing contracts if a plan no longer offers an annuity option?

The SECURE Act allows plan participants of defined contribution, 403(b), and governmental 457(b) plans to do a direct rollover of a lifetime investment option, such as an annuity, to an IRA, other retirement plan, or the individual without having to satisfy an in-service distribution exception so long as the lifetime income investment is no longer authorized to be held under the plan.

Opportunity:

Under this provision, participants currently invested in a discontinued in-plan annuity can now transfer that annuity in-kind to an IRA so that they don’t lose out on valuable lifetime benefits due to a change in the plan’s investment menu.

➤ Provisions Related to Annuities (cont.)

How did the SECURE Act change the requirements for benefit statements from defined contribution plans?

Defined contribution plan benefit statements are required to include a lifetime income disclosure at least once during a 12-month period. This disclosure will illustrate monthly payments from a Single Life annuity and qualified Joint and Survivor annuity. On 9/18/21, the DOL issued interim final rules related to permissible lifetime income assumptions and model lifetime income disclosure.

➤ Provisions for Employers

How did the SECURE Act change the Open MEPs/Pooled Employer Plans?

Multiple Employer Plans (MEPs) are retirement plans maintained by two or more unrelated employers. Prior to the passage of the SECURE Act, if one employer participating in the MEP runs afoul of the plan's requirements, then it could jeopardize the qualification status for all employers under the MEP. The SECURE Act provides relief to members of the MEP if one of them should become disqualified by allowing for the disqualified employer to transfer the assets to a separate plan.

How does the termination of 403(b) custodial accounts work under the new rules of the SECURE Act?

When a 403(b) plan terminates, the assets inside the plan are generally transferred to the participant. Unfortunately, the IRS has taken the position that assets held in custodial accounts cannot be distributed directly to the participant. A provision of the SECURE Act directs the Treasury to issue guidance allowing for the distribution of a custodial account in-kind to the participant. This guidance was issued in 2020 through Revenue Ruling 2020-23.

What are the new rules for long-term part-time employees under the SECURE Act?

For employers sponsoring retirement plans, ERISA may require that for an employee to become eligible to participate, the employee must earn a year of service and/or attain the age of 21. Under the SECURE Act, employers maintaining 401(k) plans must establish an eligibility requirement for employees to either complete one year of services or three consecutive years of service in which the employee completes at least 500 hours of service.

How did the SECURE Act enhance the plan adoption deadline?

In the past, if an employer wanted to establish a retirement plan, it needed to adopt the plan by the end of its taxable year. For retirement plans established after 1/1/20, employers can adopt a retirement plan all the way up to the employer's due date for its tax return (including extensions).

For sole-proprietor business owners who might be interested in adopting an Individual(k) plan, this provision will allow them to adopt the plan all the way up to their taxpayer's deadline (including extensions). This will provide business owners more flexibility when determining some of the tax benefits (i.e., deductions associated with a retirement plan).

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> Pacific Life—Administration Update

Below are frequently asked questions on how Pacific Life plans to manage the new rules in the SECURE Act. The information provided below is as of January 2023.

> General

Will you be changing or discontinuing any of your products or riders?

Pacific Life routinely reviews product offerings to ensure they are valuable for our clients; contact your dedicated Sales team or customer service for product and/or rider restrictions as a result of the SECURE Act passage.

How will Pacific Life process the withdrawals from an IRA for the birth and adoption of a child?

For withdrawals/rollovers that may qualify as a Qualified Birth or Adoption Distribution, Pacific Life will code and process them as normal distributions and rollovers. Pacific Life will not verify that these distributions or rollovers qualify under the “qualified birth or adoption” rule, and clients will need to work with a tax advisor to avoid the IRS early withdrawal penalty. If there are further questions regarding these provisions, clients should consult with their tax advisors.

How will you be notifying clients of the changes?

Pacific Life is reviewing internal systems to identify the updates needed to support the changes enacted by the SECURE Act.

> Removal of IRA Contributions Age Limit

Will Pacific Life allow these contributions?

Section 107 of the SECURE Act repeals the maximum age for traditional IRA contributions. Starting in 2020, any working individual can contribute to a traditional IRA regardless of age.

Contributions into a traditional IRA made for tax year 2019 are not allowable for clients who attained age 70½ prior to 1/1/20. Pacific Life will accept eligible contributions made after 1/1/20 regardless of attained age.

Example:

- In early 2020, Richard sends in an IRA contribution to be treated as a prior year (2019) contribution.
 - If Richard attained age 70½ in 2019, the contribution is not allowed.

> IRA Beneficiary and Inherited IRA Changes

Will Pacific Life still accept new inherited IRA contracts starting 1/1/20?

Pacific Life will continue to accept inherited IRAs for spousal and nonspousal beneficiaries. For designated beneficiaries, internal systems and forms have been updated to support requiring distribution of the entire balance by 12/31 of the tenth year following the original IRA owner’s date of death.

> IRA Beneficiary and Inherited IRA Changes (cont.)

Will Pacific Life still allow beneficiaries to establish an inherited IRA when filing a claim?

Designated and eligible designated beneficiaries will have the ability to establish an inherited IRA. For designated beneficiaries, internal systems and forms have been updated to support the requirement to distribute the entire balance by 12/31 of the tenth year following the original IRA owner's date of death.

Will Pacific Life still allow annuitization of IRA contracts?

Annuitization of IRA contracts is permitted with certain restrictions due to the SECURE Act. Contact customer service with any annuitization restriction questions.

For more information about the SECURE Act,
please contact our Retirement Strategies Group at
RSG@PacificLife.com or (800) 722-2333, ext. 3939.

Annuities.PacificLife.com

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