



PROPOSED RMD REGULATIONS: TRUSTS GET SOME GOOD NEWS

Do you have clients with an Individual Retirement Account or qualified account that names a trust as the beneficiary? The proposed regulations for post-death distributions from qualified accounts after the SECURE Act offer some positive news.

Here, we'll cover what happens when certain trusts are the beneficiary of an IRA or other qualified account. While there were some surprises in the proposed regulations, Notice 2022-53 helped clarify the treatment of certain required distributions for beneficiaries in years 2021 and 2022.

Good News for Trusts As Beneficiaries of Qualified Accounts

The proposed RMD regulations do offer some positive news for trusts as beneficiaries of qualified accounts and IRAs. The requirements for the trust to be considered a see-through trust are defined. The terms "conduit trust" and "accumulation trust" are formally recognized and defined. Many concerns regarding powers of appointment, decanting and reformations are largely resolved.

- **Qualifications for see-through status are defined.**

For beneficiaries of the trust to qualify as designated beneficiaries (DBs) and/or Eligible Designated Beneficiaries (EDBs) (and enjoy their distribution options), the trust must have "see-through" status.

Under the proposed regulations, a trust will qualify as a see-through trust if it is:

- Valid under state law.
- Irrevocable at death.
- The copy is provided to the plan administrator.
- The beneficiaries are identifiable.

The last requirement makes planning easier as there is better definition as to which beneficiaries must be counted than provided under the now-defunct mere potential successor (MPS) rule. Concerns regarding powers of appointment, decanting, and reformations are largely resolved.

- **Conduit trust.** A conduit trust is defined as a see-through trust where the decedent's interest in the qualified account is paid directly to or for the benefit of specified beneficiaries. Payments cannot accumulate in the trust.
- **Accumulation trust.** An accumulation trust is defined as any see-through trust that is NOT a conduit trust. Generally, this means the trust can accumulate payments and has discretion over when distributions are made to beneficiaries.

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- **The new two-tier system.** The MPS rule is dead. RIP! As many of you recall, the MPS rule allowed a beneficiary to be ignored if he or she were a “mere potential successor” to the trust. This rule has been replaced with the new two-tier system, which is more manageable.
 - **First Tier.** These are beneficiaries that are entitled to receive amounts representing the deceased qualified account owner’s interest that are not contingent on or delayed by the death of another trust beneficiary. An example would be a spousal beneficiary of the trust who receives all distributions during his or her lifetime.
 - **Second Tier.** These beneficiaries could receive amounts representing the deceased’s qualified assets if those assets were not distributed to the first-tier beneficiaries. An example might be children who will receive assets after the spouse dies. Whether these beneficiaries are counted depends on the type of trust. Generally, the answer is no for conduit trusts and yes for accumulation trusts. Note that a second-tier beneficiary who would receive assets only if a first-tier beneficiary died before a certain age, for example, 31, may not need to be counted.

Some more remote beneficiaries are not counted. For example, a beneficiary would only receive amounts from the trust if a second-tier beneficiary died. Generally, these beneficiaries do not need to be counted. An example might be a charitable beneficiary that would receive amounts only if all first- and second-tier beneficiaries die.

Note that beneficiaries who predecease the qualified account owner do not need to be counted. As an example, if trust language indicates that a spouse should have income for life with the remainder to children and the spouse predeceases the account owner, the children would now be first-tier beneficiaries. Depending on the terms of the trust, a more remote beneficiary may or may not need to be counted.

What Steps (if Any) Should Clients Take Today?

Clients may want to review their trust-related beneficiary planning strategies. In particular, who is an identifiable beneficiary should make some planning easier. There will be cases where a change may be beneficial. This may be especially true for trusts where there are age-related distributions, for example, in the case where the trust distributes when the beneficiary turns 35. The changes also may make it easier to name a charity or charities as the last possible beneficiary. For some clients, the ability to name a charity as a beneficiary is an attractive option in the event all family members pass.

Make Calls and Add Value

The proposed RMD regulations are likely to keep many of the provisions. Clients may want to plan now to allow for more flexibility depending on whether or not there are changes. Add value by proactively reaching out to clients to review options and consider needed changes.

Additional Resources and Links

[Required Minimum Distributions \(Federal Register\)](#)

[The SECURE Act: Several Key Retirement Plan Provisions](#)

[Further Consolidated Appropriates Act of 2020 \(includes SECURE Act\)](#)

[IRS Notice 2022-53](#)

For more information about retirement planning,
please contact our Retirement Strategies Group at
RSG@PacificLife.com or (800) 722-2333, ext. 3939.
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VLQ2733-0623W

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