FAQs REGARDING REQUIRED MINIMUM DISTRIBUTIONS

These frequently asked questions and answers are provided for general information only and should not be cited as any type of legal authority. They are designed to provide the user with information required to respond to general inquiries. Due to the uniqueness and complexities of Federal tax law, it is imperative to ensure a full understanding of the specific question presented, and to perform the requisite research to ensure a correct response is provided.

1. **If an individual who is a designated beneficiary dies after the death of the employee or IRA holder but before September 30 of the year following the year of the employee's or IRA holder´s death and there is a successor beneficiary entitled to distributions, what is the distribution period for required minimum distributions after the employee's death?**
2. **Can a designated beneficiary disclaim entitlement to a benefit?**
3. **If the employee's estate is named as the beneficiary of the employee, will the beneficiary of the estate be treated as having been designated as the beneficiary of the employee under the plan for purposes of determining the distribution period under section 401(a)(9)?**
4. **What clarifications have been made to the multiple beneficiary rule?**
5. **Can a beneficiary who is receiving distributions under the 5-year rule of the 1987 proposed regulations switch to the life expectancy rule?**
6. **When can an employee's account be divided into separate accounts so that each separate account may separately satisfy section 401(a)(9) following the employee's death?**
7. **Must required minimum distributions from IRAs be reported to IRA owners?**
8. **Must required minimum distributions from IRAs be reported to the IRS?**
9. **Must required minimum distributions with respect to IRAs of deceased owners or with respect to section 403(b) contracts be reported?**

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1. If an individual who is a designated beneficiary dies after the death of the employee or IRA holder but before September 30 of the year following the year of the employee's or IRA holder's death and there is a successor beneficiary entitled to distributions, what is the distribution period for required minimum distributions after the employee's death?

The deceased beneficiary continues to be treated as the designated beneficiary for purposes of determining the distribution period for required minimum distributions, even though the successor beneficiary is entitled to receive distributions from a plan or IRA.

2. Can a designated beneficiary disclaim entitlement to a benefit?

Yes. Any person who was a beneficiary as of the date of the employee's death, but is not a beneficiary as of September 30 of the calendar year following the calendar year of the employee's death is not taken into account in determining the employee's designated beneficiary for purposes of determining the distribution period for required minimum distributions after the employee's death. If a person disclaims entitlement to the employee's benefit pursuant to a disclaimer that satisfies Code section 2518 by that September 30, the disclaiming person is not treated as a designated beneficiary.

3. If the employee's estate is named as the beneficiary of the employee, will the beneficiary of the estate be treated as having been designated as the beneficiary of the employee under the plan for purposes of determining the distribution period under section 401(a)(9)?

No. The period between the death of the employee and the beneficiary determination date is a period during which beneficiaries can be eliminated but not replaced with a beneficiary not designated under the plan as of the date of death. In order for an individual to be a designated beneficiary, the individual must be designated under the plan or named by the employee as of the date of death.

4. What clarifications have been made to the multiple beneficiary rule?

If there are multiple beneficiaries, the life expectancy of the oldest beneficiary will be used as the distribution period for purposes of determining required minimum distributions.

A person who has a right to an employee's benefit as only a potential successor to the interest of one of the employee's beneficiaries upon that first beneficiary's death is not considered a beneficiary.

The 2002 final regulations clarify that this rule does not apply to a person who has any right to an employee's benefit beyond a mere potential successor to the interest of one of the employee's beneficiaries upon the death of that beneficiary. Thus, if a beneficiary has an income interest in a deceased's IRA and a second beneficiary has the remainder interest, the second beneficiary's life expectancy must be considered in determining who are the deceased - designated beneficiaries.

5. Can a beneficiary who is receiving distributions under the 5-year rule of the 1987 proposed regulations switch to the life expectancy rule?

Yes. The 2002 final regulations permit a beneficiary subject to the 5-year rule under the 1987 proposed regulations to switch to the life expectancy rule if all amounts that would have been required to be distributed under the life expectancy rule are distributed by the earlier of December 31, 2003, or the end of the 5-year period following the year of the employee's death.

6. When can an employee's account be divided into separate accounts so that each separate account may separately satisfy section 401(a)(9) following the employee's death?

Separate accounts with different beneficiaries can be established any time. The separate accounting must allocate all post-death investment gains and losses on a pro rata basis between the different accounts until the separate accounts are established. The required minimum distribution rules will be applied separately to each separate account for years subsequent to the calendar year that the separate accounts are established.

The separate accounts must be established by the end of the year following the year of the employee's death in order to permit the distribution period for a separate account to distinct beneficiaries to be determined without regard to the beneficiaries of the other separate accounts.

7. Must required minimum distributions from IRAs be reported to IRA owners?

Beginning with required minimum distributions for calendar year 2003, IRA trustees, custodians, and issuers must provide information relating to lifetime required minimum distributions to IRA owners by January 31. Thus, the first report will be due January 31, 2003, alerting IRA owners to the distribution they must take for 2003. The IRA trustee must either provide the IRA owner with the amount of the required minimum distribution, or offer to provide the IRA owner, upon request, with the amount of the required minimum distribution.

8. Must required minimum distributions from IRAs be reported to the IRS?

No. However, beginning with required minimum distributions for calendar year 2004, the fact that a minimum distribution is required with respect to an IRA for a year must be reported by the IRA trustee to the IRS on Form 5498. The trustee does not report the amount of the required minimum distribution on Form 5498.

9. Must required minimum distributions with respect to IRAs of deceased owners or with respect to section 403(b) contracts be reported?

No, not at this time.