

## IRS Offers First Answers to Post-SECURE Act Reporting Questions

The most extensive changes to retirement saving in more than a decade became law when President Trump signed the Further Consolidated Appropriations Act of 2020 (FCAA) on December 20, 2019. While the main purpose of the FCAA was to fund the federal government for the next fiscal year, Congress also added significant retirement provisions to the FCAA by including the Setting Every Community Up for Retirement Enhancement (SECURE) Act in the broader bill.

Most of the retirement enhancements in the SECURE Act have been well received. But some provisions of the Act took effect mere days after enactment—on January 1, 2020—making implementation more difficult. Industry groups have requested that the IRS expedite guidance on the most pressing questions. This *Retirement Spotlight* will address the guidance that we have so far: some that is explicit and some that we can glean through draft instructions for required tax reporting.

### **New RMD Age of 72**

The SECURE Act raised the age at which required minimum distributions (RMDs) must begin. Starting in 2020, RMDs from non-Roth IRAs and employer-sponsored retirement plans must be taken for the year the account owner turns 72, rather than 70½. On the other hand, those who reached age 70½ by the end of 2019 must take an RMD for 2019 and for all later years. So it is only those who turn 70½ in 2020 or later who will have no RMD until they reach age 72. (Remember that many employer plans permit non-owners to delay RMDs until retirement, an option not offered for IRAs or IRA-based plans.)

If an RMD has to be distributed for a given year, the IRA custodian, trustee, or issuer must inform the IRA owner by January 31. They must also tell the IRS that a taxpayer needs to take an RMD. To do this, the reporting organization simply checks a box on Form 5498, *IRA Contribution Information*, and files it by May 31 of the year the RMD is due (June 1 for 2020).

### ***IRS Relief for Inaccurate IRA Custodian, Trustee, and Issuer Reporting***

Because the SECURE Act became law so late in 2019, some organizations have struggled to accommodate the new rules. For example, they may have told IRA owners turning 70½ in 2020 that an RMD is required for 2020. This is incorrect, since RMDs in this case would be required at age 72 instead. Fortunately, IRS Notice 2020-6 grants relief from sanctions that could be assessed for this reporting inaccuracy if the following conditions are met.

- By April 15, 2020, inform IRA owners who received the inaccurate information that no 2020 RMD is required.
- Ensure that the 2019 Form 5498 for such clients—filed with the IRS by June 1, 2020—does not have a check mark in Box 11 (“Check if RMD for 2020”).
- Ensure that the 2019 Form 5498 for such clients has no entries in Box 12a (“RMD date”) or Box 12b (“RMD amount”).

### ***Relief for IRA Owners?***

It is likely that some IRA owners who turn 70½ in 2020 have taken—or will take—a distribution this year in the mistaken belief that they must take an RMD. This belief may be based on receiving an inaccurate notice from their IRA administrator. They might have chosen not to take a distribution had they been aware that no RMD was required. And some might even wish to return the amount distributed to their IRA. But unless the assets were rolled over to an IRA within 60 days, this could not be done without IRS relief.

- Notice 2020-6 did not address whether an IRA owner (or plan participant) who received a distribution they believed to be an RMD would be granted an extended period—beyond 60 days—to complete a rollover back into a tax-qualified savings arrangement.
- The Notice also did not address whether an IRA owner could escape the one-rollover-per-12-month rule. This could be a concern, for example, if an IRA owner had set up systematic or periodic IRA withdrawals that had been calculated to satisfy an anticipated 2020 RMD. Under current rules, only one of these withdrawals would be eligible for rollover.

### ***More Guidance Being Considered by IRS***

Notice 2020-6 states that the IRS is "considering what additional guidance should be provided . . . including guidance for plan administrators, payors and distributees if a distribution to a plan participant or IRA owner who will attain age 70½ in 2020 was treated as an RMD." We hope that upcoming IRS pronouncements will provide helpful guidance.

### ***IRS Recommends Additional Communication with IRA Owners***

Because of the potential for IRA owners to misunderstand the RMD age transition from 70½ to 72, the IRS "encourages all financial institutions . . . to remind IRA owners who turned age 70½ in 2019, and have not yet taken their 2019 RMDs, that they are still required to take those distributions by April 1, 2020."

### ***Qualified Birth or Adoption Distributions***

We have received limited IRS guidance on a second SECURE Act provision, which allows for a "qualified birth or adoption distribution" from an IRA or employer retirement plan. An IRA owner or plan participant may withdraw up to \$5,000—for each birth or adoption event—without facing the 10% early distribution excise tax. This provision is effective for 2020 and later years, and certain conditions and options apply.

- Such distributions must occur within 12 months of the birth or adoption.
- For adoptions, the adoptee may be a minor or an individual who is incapable of self-support.
- Amounts withdrawn under this provision may be recontributed to an employer plan or IRA.

### ***Tentative Guidance Received***

Questions remain on these distributions. But we recently got limited guidance from the IRS through a draft version of the *2020 Instructions for Forms 1099-R and 5498*. (Form 1099-R reports distributions from IRAs and employer retirement plans, while Form 5498 reports contributions, rollovers, and other information on IRAs.) While these draft instructions may not be definitive, the IRS's approach in reporting such amounts is helpful.

- A withdrawal taken as a qualified birth or adoption distribution is to be reported on Form 1099-R based on the recipient's age (reported in Box 7, *Distribution codes*). For a recipient under age 59½, use Code 1, "Early distribution, no known exception." The reporting entity makes no determination whether the distribution qualifies for the birth or adoption exception; this is the recipient's responsibility.
- The draft instructions further indicate that re-contributions of qualified birth or adoption distributions to an IRA must be reported on Form 5498 in Box 2, *Rollover contributions*, for the tax year received.

### ***Many Unanswered Questions on Qualified Birth or Adoption Distributions***

We are hoping for IRS guidance on the many open questions pertaining to this feature of the SECURE Act, including the following.

- Confirmation that this feature is an optional feature for employer plans.
- Clarification of the steps a plan administrator must take, if any, to substantiate that a distribution qualifies as a birth or adoption distribution.
- Whether there is a time limit for the taxpayer to repay such distributions to an IRA or employer plan.
- Clarification of the repayment process, including any tax implications.
- Whether repayments of amounts distributed from an IRA will be subject to the one-per-12-month IRA-to-IRA rollover limitation.

### **Conclusion**

The path to a full understanding of the FCAA and SECURE Act provisions—and their effect on retirement and other tax-advantaged savings arrangements—could be challenging. The IRS has so far given only minimal navigation assistance. More will be forthcoming—and the sooner, the better. Ascensus will continue to assess the effect of this legislation and any related guidance. Visit [Ascensus.com](https://www.ascensus.com) for future updates.