

IRS NOTICE 2020-51 - This notice provides guidance regarding provisions of the CARES Act suspending required minimum distributions (RMDs) for the 2020 calendar year. Q&A-12 of this notice makes it clear that the suspension of RMDs only applies to a defined contribution plan (e.g., 401(k)) or an IRA; it is not available for a defined benefit plan.

Key takeaways for IRS Notice 2020-51 are:

1. As distributions are addressed by calendar year, after 2020, a participant's required beginning date will be determined without regard to the 2020 RMD moratorium. A deceased participant's obligation to take a distribution, based on whether they died before or after their required beginning date, will be determined without regard to the moratorium.

2. If not already done, it is clear that IRA trustees or custodians must send notice to IRA owners that there is no RMD for 2020.

3. An RMD, and certain other payments waived for 2020, can be rolled over to an eligible plan. The 60-day rollover period of an eligible distribution is extended to August 31, 2020. Beneficiaries also may repay RMDs they received to a beneficiary IRA by August 31, 2020. The notice also appears to expand the statutory rule that only one distribution from an IRA, occurring during a 12-month period, could be rolled back to an IRA. While the CARES Act did not change the rule, the notice allows all 2020 RMDs, not just one, to be rolled over.

4. The SECURE Act changed the age to commence distributions to age 72 (from age 70 ½). The IRS Notice 2020-51 allows that some employer-sponsored plans will not fail to satisfy the SECURE Act if the plan makes 2020 distributions using the 70 ½ rule. The notice includes a sample plan amendment to address this issue.

5. Even with the SECURE Act change in age of the required beginning date to age 72, the notice covers a situation where a plan participant or IRA owner turned 70 ½ in 2019 but under law had until April 1, 2020, as the required beginning date. The RMD which needed to be satisfied by April 1, 2020, is not covered by the CARES Act moratorium; it is not considered a 2020 RMD.

6. The "five year rule" can become a "six year rule" for RMDs. When a retirement account has no "designated beneficiary" and the deceased passed away before reaching their "required beginning date" the account is required to be distributed by December 31st of the year of the fifth anniversary of death. If any of the five years includes 2020 then an extra year is tacked on; and the final distribution would have to be made by December 31st of the year of the sixth anniversary.

7. The notice contains several deadlines that are not extended; such as (a) the date for final determination of the designated beneficiary of a deceased participant or IRA account owner, which is September 30th of the year after the death of the participant or owner, (b) the date for providing information on a trust as beneficiary (or a list of trust beneficiaries) of the retirement plan,

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which is October 31st of the year after the year of the death, (c) the last date for establishing separate accounts so each beneficiary may make RMDs based on separate life expectancies, and (d) for a 2020 decedent, the five year or 10 year period for plan distributions. Note that the five year rule may become a six year rule (above), but there is no corresponding addition to the 10 year rule.

MendenFreiman cannot provide any universal advice regarding taking or not taking coronavirus related distributions, and nothing in this article should be viewed or relied upon as legal or financial advice to anyone reading or reviewing this article. Each individual and their family members will face different decisions as a result of COVID-19, and their specific income circumstances and any action taken should only be done after consultation and review with one of our attorneys.