April-June 2020 | V o l u m e 11 | Issue 2

The IRA Authority!

IRA & Employer Plan Rules, News & Tips in Plain Language

Appleby Retirement Consulting

Mark Your Calendar for These IRA Season Deadlines

In this issue:
RMDs are waived for most retirement plans for 2020, which affects other rules including rollovers. For advisors, knowing how these rules affect their clients can help them to provide the right guidance.
This issue covers some of those rules

Please mark your calendar with the following deadlines:
May 31, *IRA Contribution Information* (Form 5498)- Likely to be extended

May 31 is the deadline by which IRA custodians are required to issue Form 5498, *IRA Contribution Information* (Form 5498) to IRA owners, unless the custodian files for an extension. Form 5498 can be used as an audit tool for IRA contributions, allowing interested parties to determine whether the IRA custodian properly reported the transactions.

However, because the deadline for 2019 IRA contributions is postponed to July 15, 2020, it is expected that the deadline for filing Form 5498 will be automatically extended or postponed.

The following are some of the transactions that are reported on Form 5498: -

- Box 1: Traditional IRA participant contributions for 2019. This includes contributions made January 1, 2019 to December 31, 2019 for 2019, and January 1, 2019 to July 15, 2020 for 2019.
- Box 2: Rollover contributions made to the IRA during 2019
- Box 3: Roth IRA conversions to Roth IRAs during 2019
- Box 4: Recharacterized contributions and recharacterized conversions between Roth IRAs and non-Roth IRAs during 2019
- Box 8: SEP IRA contributions received by the IRA custodian during 2019, regardless of the year for which the employer makes the contribution.
- Box 9: SIMPLE IRA contributions received by the IRA custodian during 2019, regardless of the year for which the employer makes the contribution
- Box 10: Roth IRA participant contributions for 2019. This includes contributions made January 1, 2019 to December 31, 2019 for 2019, and January 1, 2019 to July 15, 2020 for 2019.

If none of these transactions were made to the IRA, and the IRA custodian already reported the December 31 fair market value to the IRA owner by January 31, Form 5498 is not required to be issued for the IRA for the year.

RMD Indication
The IRA Custodian is also required to indicate if the IRA owner is required to take an RMD for the 2020 calendar year. If an RMD is required, Box 11 should be checked. This does not apply to Inherited/Beneficiary IRAs.

A complete list of the information reported in each box of Form 5498 is available in the 2018 version of the IRS instructions, which is available here https://www.irs.gov/forms-instructions

The Top 8 Must Know Rules For COVID-19 RMD Waivers Under The CARES Act

RMDs are waived for most retirement plans for 2020, which affects other rules including rollovers. For advisors, knowing how these rules affect their clients can help them to provide the right guidance.

The Coronavirus Aid, Relief, and Economic Security (CARES) Act, which became public law on March 27, 2020, is in response to the coronavirus disease 2019 (COVID-19) outbreak and its impact on the economy, public health, state and local governments, individuals and businesses. The response, intended to provide aid, relief and economic security; includes a waiver of required minimum distributions (RMD) for 2020 as part of the solution.

Background- RMDs

The following is some general information about RMDs for retirement accounts.

- ***Retirement Account Owners Subject To RMDs***: Owners of traditional IRAs (including SEP IRAs and SIMPLE IRAs) must start taking RMDs from these IRAs for the year in which they reach age 70 ½ (the first RMD year), and continue every year thereafter.

  For employer sponsored retirement plans (defined contribution, defined benefit, 403(b), governmental 457(b) plans), RMDs also begin for the year in which the participant reached age 70 ½; but the terms of the plan may allow eligible participants to defer RMDs past age 70 ½ until retirement. In such cases, the first RMD year for a plan participant would be the year in which the participant reaches age 70 ½ or retires, whichever is later.

- ***The Required Beginning Date***: An RMD for the first RMD year can be deferred to as late as April 1 of the following year, which means that a first RMD that was due for 2019, could be taken in 2019 and up to as late as April 1, 2020. This April 1 extended deadline is the required beginning date (RBD).

  Please note: For those who did not have a first RMD year by December 31, 2019, the age was increased to 72. These individuals are not affected by the 2020 RMD waiver under the CARES Act, as the earliest their first RMD would be due is 2021.

- **The RMD Formula And Market Losses:** The formula for calculating an RMD is:
  RMD for a year = Year end FMV for the previous year/distribution factor for RMD year

  For example: John reached age 75 in 2020. The December 31, 2019 fair market value (FMV) of his Traditional IRA is $100,000. Assuming that John's beneficiary is his daughter, his RMD factor - based on the Uniform Lifetime Table- is 22.9 (see Appendix B — Life Expectancy Tables of IRS Publication 590-B for table rules).

John's 2020 RMD would have been $4,367 ($100,000/22.9)- about 4.4 % of his account balance.
Due to significant market losses since December 31, 2020, John's 2020 RMD would have represented a much larger percentage of the depressed FMV of his Traditional IRA. As a result of the 2020 RMD waiver under the CARES Act, John has no RMD for 2020 and may therefore leave the $4,367 in his IRA, where it would be eligible to grow tax-deferred.

- **Beneficiary RMDs:** Beneficiary retirement accounts are also subject to RMDs, and the RMD amount for a year is determined by the *beneficiary-profile*. For retirement accounts inherited by December 31, 2019, the beneficiary-profile determines whether the beneficiary's RMD is determined by the beneficiary's life expectancy, the decedent's remaining life expectancy, or the 5-year rule.

  If the beneficiary is required to take distributions over the beneficiary's or the decedent's life expectancy, beneficiary RMDs are required to begin by December 31 of the year following the year in which the retirement account owner died, and continue for every year thereafter. This means that an RMD would have been due for 2020 had it not been for the CARES Act.

  Under the 5-year rule, distributions are optional until December 31 of the 5th year that follows the year in which the retirement account owner died, at which time the entire remaining balance is the RMD and must be distributed from the account.

  If the beneficiary is subject to the 5-year rule, which would have been an option only if the retirement account owner died before the RBD, an RMD would have been due for 2020 only if the retirement account owner died in 2015.

  Please note: For retirement accounts inherited after December 31, 2019, the beneficiary-profile changes. Those changes are beyond the scope of this article, as the earliest that such beneficiaries could be subject to RMDs is 2021, and are therefore not affected by the 2020 RMD waiver.

Not having to take RMDs is only the overarching provision of the RMD waiver. Other related rules must be taken into consideration in order to effectively guide clients about the waiver and attendant rules. The following are the top 8 of these rules.

1. **2020 RMDS Waived For Both Owner And Beneficiary Accounts**
   One of the most common questions about the waiver, is whether it applies to Beneficiary accounts. To answer that question, we refer to the language in the CARES Act, which says that the waiver applies to:
   - IRC §§ 403(b); 403(a) defined contribution plans,
   - IRC § 457(b) governmental eligible deferred compensation plans, and
   - IRC § 7701(a)(37) individual retirement plans, which are IRAccounts and IRAnnuities.

By definition, under IRC § 401(a)(9) RMDs for an individual include amounts required to be distributed from accounts the individual holds as owner, and amounts that the individual holds as beneficiary/inherited accounts. Therefore, as provided under Section 2203 of the CARES Act, RMDs are waived for owner and beneficiary/inherited accounts.

RMDs are not waived for defined benefit plans.

2. **It's A Split Decision For 2019 RMDs**

An individual whose first RMD year is 2019, had the option of taking the 2019 RMD in 2019 or by April 1, 2020.

If the RMD was taken in 2019, the 2020 RMD waiver does not apply to that RMD.

If the RMD was not taken by December 31, 2019, the 2020 RMD waiver applies.

3. **No First RMD By 2019 Means No Impact By RMD Waiver**

The Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act) increased the first RMD year from age 70 ½ to age 72, for individuals who did not have a first RMD due by December 31, 2019. As a result, individuals who reached age 70 ½ after December 31, 2019 already did not have an RMD due for 2020.

Example 1: Erikah Sellicka's date of birth is June 30, 1949, which means that she reached age 70 ½ on December 31, 2019. Erikah Sellicka's first RMD was due for 2019, and her RBD is April 1, 2020.

Erikah would have had to take an RMD for 2020, had it not been for the waiver under the CARES Act.

Example 2: Tim Tom's date of birth is July 1, 1949, which means that he reached age 70 ½ on January 1, 2020. Tim Tom's first RMD would be due for 2021, when he reaches age 72, and his RBD would be April 1, 2022.

Tim has no RMD for 2020, even if RMDs were not waived under the CARES Act.

4. **Amounts That Are Made Non-RMDs By The CARES Act Are Eligible For Rollover**

Distributions from defined contributions, defined benefit plans and IRAs may be rolled over only if the distribution amount is not on the list of distributions that are not "eligible rollover distributions". See the section on "Rollovers" in IRS Publication 575 and/or or IRC § 402(c)(4) for a list of distributions amounts that are not eligible rollover distributions.

RMDs are on the list of distributions that are not eligible rollover distributions.

However, because RMDs are waived for 2020 for the accounts listed above under Rule 1, distributions of any amounts that would have otherwise been 2020 RMDs may be rolled over. These rollovers are generally required to be completed within 60-days of receipt; and, if the distribution is made from an IRA it is subject to the one-per-year rollover rule (See Rule 5).

A distribution that is properly rolled over is excluded from income.

5. **The One-Per-Year IRA Rollover Rule Can Be Overcome**

Under the one-per-year rollover rule, an individual who takes a distribution from an IRA and rolls over any portion of that distribution to the same or another IRA of the same type, may not perform another IRA to IRA rollover for the next twelve months.

For example: Tyrone takes a distribution from his Traditional IRA and receives the amount on November 20, 2019. Tyrone rolls over the distribution to another traditional IRA within 60-days of receipt. Tyrone is not eligible to:

- Roll over a distribution from a traditional, SEP or SIMPLE IRA; to a traditional SEP, or SIMPLE IRA for the next 12 months.
- Roll over a distribution from a Roth IRA to a Roth IRA for the next 12 months.

The 12-month period for Tyrone began on November 20, 2019 when he received the distribution.
If Tyrone took a distribution in January of 2020 from his Traditional IRA, intended to satisfy his 2020 RMD, he may not roll over any portion of that amount to any Traditional IRA, SEP IRA or SIMPLE IRA, as doing so would break the one-per-year rule.

Solutions for Tyrone

Tyrone may use either of the following options to return the amount to his tax-deferred retirement nest egg.

- **Roth IRA Conversion:** Tyrone may deposit the amount to a Roth IRA, as a Roth conversion, within 60 days of receipt. Under this option, Tyrone must include the amount in income, and any pre-tax portion would be taxable for 2020- the year in which the distribution occurred.
- **Rollover to Employer Sponsored Retirement Plan:** If Tyrone is a participant in an employer sponsored retirement plan that accepts rollovers of such amounts, he may roll over the amount to his account under the plan, within 60 days of receipt. In this case, the distribution would be excluded from income.

The one-per-year rollover rule applies only to rollovers between IRAs. It does not apply to Roth conversions, or rollovers where an employer sponsored retirement plan is on the distribution or rollover end of the transaction.

6. **The 60-Day Period Can Be Waived**

While rollovers must generally be completed within 60-days of receipt, the 60-day period can be extended under certain circumstances. These include:

- **An automatic waiver:** The 60-day period is extended to one year, if the 60-day deadline was missed because the financial institution or plan trustee failed to deposit the amount into the owner's retirement account; despite the retirement account owner doing everything required by the financial institution/plan trustee to make the rollover compliant- including presenting the amount to the financial institution/plan trustee within the 60-day period.

- **A self-certification:** If the retirement account owner meets certain requirements, including missing the deadline due to any of the reasons listed in Revenue Procedure 2016-47, the rollover contribution may be made as soon as practicable- but generally within 30-days of the reason for missing the deadline no longer prevents the rollover.
- **The deadline is postponed due to a federally declared disaster:** For instance, the deadline for completing a rollover was extended to July 15, 2020 under IRS Notice 2020-23, if the rollover was required to be completed on or after April 1, 2020, and before July 15, 2020. This deadline was extended in response to the Emergency Declaration of the ongoing COVID-19 pandemic.
- **An IRS Private Letter Ruling (PLR) request:** The IRS may waive the 60-day rollover requirement "where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement." The IRS charges a fee of $10,000 to review such waiver requests, and there is no guarantee that a favorable ruling would be issued. When making the decision, the IRS considers the facts and circumstances of the case.

  Professional fees would also apply if the IRA owner engages the services of a professional to assist with filing the PLR request for the waiver.

  When determining whether the pursue this option, consideration must be given to the guidelines that the IRS use when making a decision. These are available in IRS Revenue Procedure 2003-16.

These are just <u>some</u> of the circumstances under which the 60-day deadline can be waived.

7. **RMDs From Beneficiary Accounts May Not Be Rolled Over**
Except for a beneficiary who is the surviving spouse of the deceased retirement account owner, an individual who takes a distribution from an inherited retirement account may not roll over any portion of such distribution.

Under the spouse-beneficiary exception, the rollover may not be made to a beneficiary retirement account, and must instead be made to the spouse's own (non-Beneficiary) retirement account.

8. **The 5-Year Rule Is Extended To 6 Years**
In instances where the 5-year rule applies, the period is extended by one year, if 2020 is part of the 5 years. As a result, if the owner died in:
   - 2015, the account must be fully distributed by December 31, 2021
   - 2016, the account must be fully distributed by December 31, 2022
   - 2017, the account must be fully distributed by December 31, 2023
   - 2018, the account must be fully distributed by December 31, 2024

- 2019, the account must be fully distributed by December 31, 2025

Action Plan For Advisors

Advisors should notify their clients about these rules now, so that qualifying clients may take advantage if needed. Client communication should include, but not be limited to the following:

- **How to suspend scheduled RMDs:** This is especially important for those who take periodic distributions from IRAs, as only one of those distributions would be eligible to be rolled over to the same type of IRA from which the distribution was made.
- **The RMD waiver does not mean distributions cannot be made:** There are retirement account owners who rely on their RMDs to cover living expenses. These individuals may still take 2020 distributions despite the fact that such distributions are no longer RMDs.
- **How to roll over amounts that are no longer RMDs, as a result of the waiver:** These rollovers must follow statutory requirements as well as the financial institution's or trustee's operational requirements.
- **Ineligible rollovers create excess contributions:** A rollover that misses the 60-day deadline and does not qualify for a waiver, or a rollover of an amount that breaks the one-per-year rollover rule, could create an excess contribution in the receiving account. For an IRA, an excess contribution would result in the IRA owner being subject to a 6% excise tax on the excess amount, if the excess contribution is not properly corrected by the account owner's tax filing due date, plus extensions. This 6% excise tax would apply for every year the excess remains in the IRA.

Taxpayers have been asking a litany of questions about the provisions made for retirement accounts under the CARES Act. Being proactive with sending our communications can help to reduce the number of questions. Additionally, maintaining a database of questions and answers can help to provide clients with timely responses.

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