



# SECURE 2.0

ACT OF 2022

## A CLOSER LOOK: REQUIRED MINIMUM DISTRIBUTIONS


When Congress passed the SECURE 2.0 Act in 2022, it spanned nearly 400 pages and included 92 provisions. So you don't need to wade through the whole document, we're highlighting key provisions that impact most retirement plans.


The SECURE 2.0 Act includes several provisions related to required minimum distributions:


- **Section 107**, Increase in age for required beginning date for mandatory distributions.
- **Section 204**, Eliminating a penalty on partial annuitization.
- **Section 302**, Reduction in excise tax on certain accumulations in qualified retirement plans.
- **Section 325**, Roth plan distribution rules.
- **Section 327**, Surviving spouse election to be treated as employee.
- **Section 337**, Modification of required minimum distribution rules for special needs trust.

### SECTION 107, INCREASE IN AGE FOR REQUIRED BEGINNING DATE FOR MANDATORY DISTRIBUTIONS

**Summary of Provision:** The required beginning date is the age terminated participants must begin taking annual required minimum distributions (RMDs) from their retirement plans. The required beginning date was age 70½ until the SECURE Act of 2019 increased the age to 72. Section 107 of SECURE 2.0 increases the age to 73 for participants who had not turned age 72 by the end of 2022 and will increase it to 75 for participants who will not have turned 74 by the end of 2032. A participant may defer their first RMD to April 1 of the year after they attain their RMD age. All subsequent RMDs must be taken by December 31 of the year to which the RMD applies. Note: Participants who are 5% owners must begin taking RMDs when they reach their required beginning date even if they are still actively employed.

 **What it means:** There is no change for participants who turned 72 in 2022 or earlier. They must continue taking their annual RMDs. Participants who are already terminated and who turn 72 in 2023 will not have an RMD due until 2024 — the year in which they turn 73 — which must be taken no later than April 1, 2025. Active participants who are currently 73 or older and who terminate employment in 2023 will have a first RMD due for 2023, which must be taken no later than April 1, 2024.

 **Why it happened:** RMD rules were intended to ensure that retirement savings were used for retirement purposes rather than wealth transfer, and to ensure that retirement savings are not tax-deferred indefinitely. However, participants are living and working longer, which is reflected in the increase in the required beginning date for RMDs to age 73 now and to age 75 in 2033.

 **The impact:** Terminated plan participants and participants who are 5% owners (whether terminated or not) who reach age 73 between 2023 and 2032 must begin taking RMDs no later than April 1 of the year following the year they turn 73. Those who reach age 74 after 2032 must begin taking RMDs April 1 following the year they turn 75.

 **Effective date:** Upon enactment of SECURE 2.0, December 29, 2022.



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## SECTION 204, ELIMINATING A PENALTY ON PARTIAL ANNUITIZATION

**Summary of Provision:** If a portion of a participant's account balance has been annuitized and the annuity payments for a year exceed the amount that would have been due as an RMD from the annuitized balance for that year, the excess amount can be credited against the RMD that would otherwise be due from the non-annuitized portion of the participant's account balance.



**What it means:** Annuity payments that exceed the RMD due on the portion of the account that was annuitized can be applied to the participant's RMD for the non-annuitized portion of the participant's account. This reduces the amount the participant must withdraw from the non-annuitized portion of his or her retirement account.



**Why it happened:** Allowing the excess annuity amount to be credited against the participant's RMDs removes a significant disincentive from the option of partially annuitizing, because the participant will be required to withdraw less money from the plan than they would have without this provision.



**The impact:** Plan participants who have partially annuitized their retirement plan balances are no longer "penalized" by having to take a larger RMD than would have been required had they not annuitized a portion of their account.



**Effective date:** On and after the effective date of SECURE 2.0, December 29, 2022.

## SECTION 302, REDUCTION IN EXCISE TAX ON CERTAIN ACCUMULATIONS IN QUALIFIED RETIREMENT PLANS

**Summary of Provision:** Section 302 reduces the penalty for failure to take required minimum distributions (RMDs) on time. In general, RMDs must be paid by December 31 of the year for which the RMD is due. A first-time RMD must be paid by April 1 of the year following the year for which it is due. If the RMD is not paid by its due date, a penalty of 50% of the late or missed RMD is assessed. This provision reduces the penalty to 25% in most cases, and to 10% if certain requirements are met.



**What it means:** Section 302 reduces the penalty for failure to receive an RMD, from 50% of the missed amount to 25%. In addition, if the missed RMD is paid during the "correction period" (generally two years from the date it was due) and the taxpayer has submitted a tax return reflecting the penalty, it is further reduced to 10%.



**Why it happened:** Late or missing RMDs are often not the participant's fault, and a 50% penalty on the amount due is a steep burden. Reducing the penalty removes a significant economic burden from participants.



**The impact:** Participants who receive RMDs after the due date for those RMDs are now subject to a reduced penalty.



**Effective date:** Taxable years beginning after enactment of the SECURE 2.0 Act, December 29, 2022.

## SECTION 325, ROTH PLAN DISTRIBUTION RULES

**Summary of Provision:** The required minimum distribution (RMD) rules for distributions to participants prior to death will not apply to Roth balances in 401(k) plans beginning with the 2024 distribution calendar year.



**What it means:** For RMDs due for 2024 and later, the RMD will be calculated based on a participant's non-Roth balances only. For example, if a participant's total account balance is \$100,000 and the Roth portion of that account balance is \$20,000, the participant's RMD will be calculated on the \$80,000 that is not Roth. Roth balances will continue to be included when calculating the RMD that must be paid to a beneficiary after a participant's death.



**Why it happened:** Currently, the rules for including Roth balances in calculating RMDs are different for retirement plans than they are for IRAs. While participants with a Roth account in an employer plan had to take RMDs from their Roth balances when they reached the required beginning age, Roth IRA participants did not. By making the rules between employer plans and IRAs consistent, Section 325 allows plan participants to decide whether to leave their Roth retirement account in their employer plan or roll it into a Roth IRA without having to consider RMDs.



**The impact:** Plan participants with Roth accounts in a workplace retirement plan who reach RMD age will no longer have their Roth balances taken into account for RMDs, so they will no longer need to roll over their retirement plan assets to an IRA to receive equal tax treatment.



**Effective date:** RMDs due for taxable years after 2023 (excluding first-year RMDs due for 2023 which may be deferred until April 1, 2024).

## SECTION 327, SURVIVING SPOUSE ELECTION TO BE TREATED AS EMPLOYEE

**Summary of Provision:** Currently, if a surviving spouse is the participant's only beneficiary, the surviving spouse can be treated as if he or she were the participant for the purpose of applying the required minimum distribution (RMD) rules, as long as the retirement plan document allows it. Beginning in 2024, a surviving spouse must affirmatively elect this treatment if he or she wants to be treated as the participant for RMD purposes.



**What it means:** Many plans currently allow treatment of a surviving spouse as the participant for RMD purposes through the terms of the plan document. Section 327 adds an administrative step requiring surviving spouses who want to be treated as the participant for RMD purposes to affirmatively elect this treatment, beginning in 2024.



**Why it happened:** The ability for a surviving spouse to be treated as the participant creates three advantages for the surviving spouse:

1. If the participant had not started receiving RMDs prior to his or her death, the surviving spouse may leave the account balance in the plan until the date the participant would have needed to begin RMDs had he or she lived.
2. If the participant was already receiving RMDs, any RMDs continuing to the surviving spouse can be calculated using the uniform lifetime table, which generally produces a lower RMD than the single life table that would otherwise need to be used.
3. If the surviving spouse dies before distributions to him or her begin, any subsequent spouse of the surviving spouse is afforded these same options.



**The impact:** Plan sponsors should update their administrative procedures related to death claims to ensure surviving spouses are given the opportunity to elect to be treated as the participant and that the materials they are provided clearly communicate the advantages of making the election.



**Effective date:** Dates of death after December 31, 2023.

## SECTION 337, MODIFICATION OF REQUIRED MINIMUM DISTRIBUTION RULES FOR SPECIAL NEEDS TRUST

**Summary of Provision:** The SECURE Act of 2019 changed the distribution timing requirements for beneficiaries, so that “designated” beneficiaries are required to receive the full account balance by the end of the 10th year following the year of death, and “eligible” designated beneficiaries are permitted to, alternatively, elect life expectancy distributions (the “stretch” rule). When a trust is the beneficiary, whether the stretch rule can be applied will depend on whether the trust’s beneficiaries are eligible designated beneficiaries. Section 337 provides that special needs trusts may qualify for the stretch rule if certain requirements are met.



**What it means:** Section 337 clarifies that when a special needs trust (called an applicable multi-beneficiary trust, or AMBT) has been established for one or more chronically ill or disabled beneficiaries, a charitable organization may be named as the remainder beneficiary of the AMBT and the chronically ill or disabled beneficiaries will still qualify for the life expectancy “stretch” allowed under the SECURE Act.



**Why it happened:** Section 337 of SECURE 2.0 allows participants to include a qualified charity as a beneficiary under an AMBT without disqualifying the life expectancy election to be made with respect to disabled or chronically ill beneficiaries under the AMBT.



**The impact:** Plan participants may designate as beneficiary an AMBT that names one or more disabled or chronically ill beneficiaries and a qualified charity as the beneficiaries of the trust without losing the option for the disabled or chronically ill beneficiaries to elect life expectancy payments.



**Effective date:** Calendar years beginning after enactment of SECURE 2.0, December 29, 2022.

