

**REQUIRED MINIMUM DISTRIBUTIONS FROM  
INDIVIDUAL RETIREMENT ACCOUNTS AND RETIREMENT PLANS  
New (and Improved) IRS Proposed Regulations**

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**Overview:**

On March 26, 2002, the IRS issued new final regulations for determining the required minimum distributions from IRAs, qualified plans, deferred compensation plans under Code Section 457, and Code Section 403(b) annuity contracts, custodial accounts, and retirement income accounts.

The new proposed regulations make it much easier to determine the required minimum distributions during the lifetime of an IRA owner or defined contributions retirement plan participant. [For purposes of this article, the term “participant” will include not only an employee or other participant in a retirement plan, but also an owner of an IRA.]

Participants no longer need to decide whether or not to recalculate their life expectancies each year. Recalculation will be the rule under the new regulations. However, recalculation has been greatly simplified in that everyone, with one exception, will use a life expectancy figure derived from one table. The life expectancy figure will be the same for every participant at the same age. There will no longer be a need to calculate a joint life expectancy figure depending on the ages of the participant and the participant’s designated beneficiary.

The new proposals also provide flexibility in determining who will be the designated beneficiary for distributions after the death of the participant. The designated beneficiary can now be determined as late as September 30 of the year following the death of the participant, rather than as of the Required Beginning Date (“RBD”) or as of the death of the participant, as called for under the 1987 regulations. In addition, the participant,

during his or her lifetime, can change the designated beneficiary even after the Required Beginning Date without affecting the minimum distribution amount.

The discussion following will examine four areas under the new regulations related to IRA and retirement plan distributions:

- ◆ The Uniform Table for required minimum distributions during the participant's lifetime;
- ◆ Determination of the designated beneficiary;
- ◆ Distributions after the death of the participant;
- ◆ The effective date of the new regulations.

### **Uniform Table for Required Minimum Distributions During Participant's Lifetime**

Under both the 1987 and the new regulations, a participant must receive a distribution from his or her IRA or retirement plan by the RBD which is April 1st of the year following attainment of age 70-1/2 (or April 1st of the year following retirement for a plan participant who is still working). Under the 1987 regulations, the Required Minimum Distribution ("RMD") was determined by dividing the value of a participant's account balance, as of December 31 of the year prior to the distribution, by a life expectancy factor that varied depending on whether or not there was a designated beneficiary who needed to be considered for figuring a joint life expectancy, on the age of that beneficiary, and on whether or not the participant elected to recalculate the life expectancy factor each year.

Under the new regulations, with one exception, participants reaching the RBD will each year use a life expectancy factor that is taken from one simple, uniform table ("Uniform Table"). The Uniform Table is reproduced at the end of this article.

The life expectancy factor has been recalculated for each age of the participant beginning at age 70. The factors of the Uniform Table assume a joint life expectancy of the participant and a survivor 10 years younger, regardless of the actual circumstances of the participant. In addition, the new tables use updated mortality assumptions to reflect longer average life expectancies. For example, the factor for a participant attaining age 70 is 27.4 years. The RMD for a participant attaining age 70-1/2, therefore, will be 1/27.4th of the account balance. This factor is used even if the participant's designated beneficiary for joint life purposes is also age 70. Under the 1987 regulations, the joint life expectancy of two 70 year olds is only 19.6 years.

The participant does not have to decide whether to recalculate the joint life expectancy each year because the Uniform Table automatically does so. Since the life expectancies are recalculated each year, the participant has less worry that his benefits

will run out before his death.

An exception to using the Uniform Table applies for a participant whose sole beneficiary is a spouse who is more than 10 years younger than the participant. In that case, the regulations define the applicable distribution period as the longer of the distribution period determined in accordance with the Uniform Table or the joint life expectancy of the participant and spouse using the participant's and spouse's attained ages as of the participant's and the spouse's birthdays in the distribution calendar year. The longer distribution period would generally be the joint life expectancy of the participant and the spouse unless the spouse predeceases the participant or they are divorced. If the much younger spouse did predecease the participant, or they were divorced, the participant would revert to using the Uniform Table, even if the participant has passed the RBD.

### **Designated Beneficiary**

Before determining how distributions are to be made after the death of the participant, the identity of the designated beneficiary, if any, must be ascertained.

Under the current 1987 regulations, the designated beneficiary of the participant is determined as of the RBD or as of the date of death of the participant if that death occurs prior to the RBD. Under the proposed regulations, the designated beneficiary does not have to be determined until September 30 of the year following the year of the participant's death.

Under this new change, a participant has the ability to change his designated beneficiary at anytime during his lifetime, even after passing his RBD.

In addition, the new regulations allow for some flexibility in determining the designated beneficiary, whose identity determines the required minimum distributions following the participant's death. Now that the designated beneficiary does not have to be identified until the year following the participant's death, the survivors have an opportunity to "arrange" for the designated beneficiary. For example, assume multiple beneficiaries are named at the time of the participant's death. Older beneficiaries can be eliminated by early distribution of their benefits, or through disclaimer or otherwise, during the period of time after the participant's death but before October 1 of the following year. This can leave a younger beneficiary as the "designated beneficiary" which would allow a longer payout of the benefits. Disclaimers can be used subsequent to the participant's death to help ensure that a truly needy beneficiary is the only designated beneficiary as of the required designation date.

Generally, only an individual may be a designated beneficiary for purposes of determining the distribution period for RMDs. However, under certain circumstances, the beneficiaries of a trust that is named as the beneficiary of a participant's IRA or retirement

plan may be substituted as designated beneficiaries for the purposes of the RMD regulations. Where there are multiple beneficiaries, if any one of them is not an individual or a qualifying trust, there is no designated beneficiary unless each beneficiary has a “separate share” of the plan.

## **Determining Distributions After the Death of the Participant**

The required minimum distribution after the death of the participant depends on whether the participant died before, on, or after the RBD, and on the relationship of the designated beneficiary to the participant.

### **1. Death of Participant Before the Required Beginning Date**

#### **A. Five Year Rule:**

If there is no designated beneficiary as of September 30 of the year following the calendar year of the participant’s death, the entire interest of the participant must be distributed within 5 years of the participant’s death regardless of who or what entity receives the distribution.

#### **B. Life Expectancy Rule:**

1) If a non-spouse is the designated beneficiary (or there is a combination of spouse and non-spouse designated beneficiaries), the applicable distribution period for determining minimum distribution amounts will be the life expectancy of the designated beneficiary determined as of the year following the year of the participant’s death. The first required distribution must occur before December 31 of the year following the year of the participant’s death. In the case of multiple designated beneficiaries, the beneficiary with the shortest life expectancy is the designated beneficiary for purposes of determining the applicable distribution period.

2) If the surviving spouse is the sole designated beneficiary, the required minimum distribution is calculated by using the life expectancy of the spouse determined as of the year following the year of the participant’s death. The spouse’s life expectancy is recalculated each year thereafter to determine each year’s new RMD.

Distributions to the spouse must commence on or before the later of:  
a) the end of the calendar year immediately following the calendar year in which the participant died; or b) the end of the calendar year in which the participant would have attained age 70-1/2.

3) If the spouse is the sole designated beneficiary and the spouse dies after the participant, but before distributions have begun to the surviving spouse, then the spouse is treated as if the spouse is the participant, substituting the spouse’s death for the

participant's death, and in general, the rules applicable to a participant are applied to the spouse in determining future RMDs.

## **2. Death of Participant On or After the Required Beginning Date**

### **A. Life Expectancy Rules:**

1) If there is no designated beneficiary, the RMD is calculated using an applicable distribution period based on the life expectancy of the participant using the participant's age in the calendar year of the participant's death. The life expectancy factor for the participant is not recalculated in subsequent years. Instead the life expectancy factor determined for the year of the participant's death is reduced by one for each subsequent calendar year.

2) If a non-spouse is a designated beneficiary, the RMD is calculated using an applicable distribution period based on the life expectancy of the beneficiary as of the beneficiary's birthday in the calendar year immediately following the calendar year of the participant's death. The life expectancy factor for the beneficiary is not recalculated in subsequent years, but is instead reduced by one for each subsequent year.

3) If the spouse is the sole designated beneficiary, the RMD is calculated using an applicable distribution period based on the spouse's life expectancy as of the spouse's birthday in the calendar year immediately following the calendar year of the participant's death. The life expectancy factor for the spouse is recalculated for each subsequent year.

Upon the spouse's death, any remaining benefits of the participant may be paid out over the life expectancy of the spouse, calculated as of the year of the spouse's death and reduced by one for subsequent years.

## **Effective Date of the Proposed Regulations**

The regulations are effective for distributions for calendar years beginning on or after January 1, 2002.

## UNIFORM TABLE

### Life Expectancy Factor For Each Age

Age	Applicable Factor	Age	Applicable Factor	Age	Applicable Factor
70	27.4	86	14.1	102	5.5
71	26.5	87	13.4	103	5.2
72	25.6	88	12.7	104	4.9
73	24.7	89	12.0	105	4.5
74	23.8	90	11.4	106	4.2
75	22.9	91	10.8	107	3.9
76	22.0	92	10.2	108	3.7
77	21.2	93	9.6	109	3.4
78	20.3	94	9.1	110	
79	19.5	95	8.6		
80	18.7	96	8.1		
81	17.9	97	7.6		
82	17.1	98	7.1		
83	16.3	99	6.7		
84	15.5	100	6.3		
85	14.8	101	5.9		



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