The Cannon Estate Planning Teleconference Series

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Qualified Retirement Plans and IRAs Planning Under SECURE Act of 2022 and 2024 Final Regulations

Cannon Financial Institute, Inc.

Presents

The 2026 Estate Planning Webinar Series

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Mr. Redd is a member of the State Bar of Wisconsin, The Missouri Bar, the Illinois State Bar Association, The Bar Association of Metropolitan St. Louis and the Estate Planning Council of St. Louis.

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Mr. Redd is an elected member of The American Law Institute and a Fellow of The American College of Trust and Estate Counsel (Past Missouri State Chair; Past Regent; Estate and Gift Tax Committee; and Fiduciary Litigation Committee). He was an adjunct professor of law (Estate Planning) at Northwestern University School of Law for fifteen years. He serves as a member of the Advisory Committee for the Heckerling Institute on Estate Planning and is Co-Chair of the Editorial Advisory Board of, and writes a regular column in, TRUSTS & ESTATES magazine. In 2018, he was inducted into the Estate Planning Hall of Fame® by the National Association of Estate Planners and Councils and, in 2023, was named Distinguished Estate Planner of the Year by the Estate Planning Council of St. Louis. In 2024, Mr. Redd was identified among the top 100 lawyers in Missouri and Kansas by Missouri & Kansas Super Lawyers. Mr. Redd was listed in the 2025 edition of The Best Lawyers in America as the St. Louis "Lawyer of the Year" in "Litigation-Trusts and Estates," and is nationally "Band 1" ranked by Chambers and Partners in their 2026 High Net Worth guide. He frequently writes and lectures nationally on topics in the trusts and estates field.

TABLE OF CONTENTS

Page

I. INTRODUCTION 1

II. REQUIRED BEGINNING DATE 1
A. Meaning of Term 1
B. Determination of Required Beginning Date 1

III. DESIGNATED BENEFICIARY 2
A. Meaning of Term 2
B. Determination of Whether Employee Has a Designated Beneficiary 2

IV. ELIGIBLE DESIGNATED BENEFICIARY 2

V. SPECIAL RULES FOR SEE-THROUGH TRUSTS 3
A. Definition of See-Through Trust 3
B. Types of See-Through Trusts 4
C. Recognition of Trust Beneficiaries 4
1. *Current Beneficiaries and Other Beneficiaries* 4
2. *Applicable Multi-Beneficiary Trusts* 5
3. *Powers of Appointment* 5
4. *Trust Modifications* 5
D. Separate Interests of Trust Beneficiaries 6

VI. REQUIRED MINIMUM DISTRIBUTIONS 6
A. During Employee's Lifetime 6
B. Following Employee's Death on or After Required Beginning Date 7
1. *Employee With Designated Beneficiary* 7
2. *Employee With No Designated Beneficiary* 7
C. Following Employee's Death Before Required Beginning Date 7
1. *Employee With Eligible Designated Beneficiary* 7
2. *Employee With Designated Beneficiary Who is Not an Eligible Designated Beneficiary* 8
3. *Employee With No Designated Beneficiary* 8
D. Determining Remaining Life Expectancies Following Employee's Death 8
1. *Employee* 8
2. *Non-Spouse Designated Beneficiary* 9
3. *Spouse Designated Beneficiary* 9

VII. PLANNING WITH TRUSTS 9
A. Conduit Trusts 9
1. *Surviving Spouse* 9
2. *Eligible Designated Beneficiary Who is Not Surviving Spouse* 10
3. *Designated Beneficiary Who is Not an Eligible Designated Beneficiary* 10
B. Accumulation Trusts 10

VIII. AVOIDING PENALTIES APPLICABLE TO QUALIFIED PLANS AND IRAS 11
A. Early Distributions 11
B. Failure to Take a Required Minimum Distribution 13
C. Excess Contributions 13

Qualified Retirement Plans and IRAs Planning Under SECURE Act of 2022 and 2024 Final Regulations

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I. INTRODUCTION

Many of our clients have sizable accumulations in defined contribution qualified retirement plans and individual retirement accounts ("IRAs") (collectively, "plans").[1] This is a unique type of asset that presents potential opportunities and difficulties in the estate planning context. The ultimate beneficial objective is to maintain as much of the plan intact for as long as possible – in order to maximize income tax-deferred investment return – while preserving as much dispositive flexibility as possible. This quest is often elusive.

The distribution rules summarized below apply to the extent the applicable plan documents don't otherwise provide. A plan may include optional provisions that don't conflict with Internal Revenue Code ("IRC") § 401(a)(9).[2]

II. REQUIRED BEGINNING DATE

A. Meaning of Term

The term "required beginning date" ("RBD") refers to the date when the entire interest of a plan participant or IRA owner (collectively, the "employee") must be distributed to him or her or the date when required minimum distributions ("RMDs") out of such interest must begin to be made to him or her or to a designated beneficiary.[3]

B. Determination of Required Beginning Date

The RBD for distributions from a plan is April 1 of the calendar year following the later of: (1) the calendar year in which the employee reaches the applicable age; or (2) if not a 5% owner, the year when the employee retires.[4] The term "applicable age" means:

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[1] Additionally, some clients, *e.g.*, employees of Internal Revenue Code ("IRC") § 501(c)(3) organizations, public schools, state colleges and state universities, are participants in IRC § 403(b) accounts, also known as tax-sheltered annuities ("TSAs"). The rules of IRC § 401(a)(9) regarding permitted and required distributions from qualified retirement plans generally apply to individual retirement accounts and IRC § 403(b) accounts as well. *See* IRC § 408(a)(6); Treas. Reg. § 1.408-8(a)(1); IRC § 403(b)(10) and Treas. Reg. § 1.403(b)-6(e).
[2] Treas. Reg. § 1.401(a)(9)-1(c)(2).
[3] IRC § 401(a)(9)(A) and (B).
[4] IRC § 401(a)(9)(C); Treas. Reg. § 1.401(a)(9)-2(b).

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- In the case of an employee born before July 1, 1949, age 70½.
- In the case of an employee born on or after July 1, 1949 but before 1951, age 72.
- In the case of an employee born on or after January 1, 1951 but before 1959, age 73.
- In the case of an employee born on or after January 1, 1960, age 75.[5]

III. DESIGNATED BENEFICIARY

A. Meaning of Term

The term "designated beneficiary" ("DB") means any individual designated as a beneficiary by the employee.[6] Except as discussed below, DB status is determined as of the employee's date of death.[7]

B. Determination of Whether Employee Has a Designated Beneficiary

Generally, if a person other than an individual, such as the employee's estate, is designated as a beneficiary by the employee, the employee will be treated as having no DB, even if individuals are also designated as beneficiaries.[8] However, such person will be treated as not having been designated as a beneficiary if, by September 30 of the calendar year following the calendar year in which the employee died, such person:

- Receives the entire benefit to which such person is entitled; or
- Disclaims, in a manner satisfying the requirements of IRC § 2518, the entire benefit to which such person is entitled.

IV. ELIGIBLE DESIGNATED BENEFICIARY

The term "eligible designated beneficiary" ("EDB")[9] means a designated beneficiary who is:

[5] IRC § 401(a)(9)(C)(v); Treas. Reg. § 1.401(a)(9)-2(b)(2).
[6] IRC § 401(a)(9)(E)(i); Treas. Reg. § 1.401(a)(9)-4.
[7] Treas. Reg. § 1.401(a)(9)-4(c)(1).
[8] Treas. Reg. § 1.401(a)(9)-4(b). *But see* Private Letter Ruling 202624001 (Release Date: June 12, 2026), in which there was no beneficiary designation in place for a decedent's individual retirement account ("IRA"), and so the decedent's estate was treated as the IRA's sole beneficiary. The Internal Revenue Service nevertheless permitted IRA distributions to be made to the estate's residuary beneficiaries over the decedent's remaining life expectancy.
[9] Section 401 of the SECURE Act, amending IRC § 401(a)(9)(E), introduced the term "eligible designated beneficiary."

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- The employee's surviving spouse[10];
- The employee's child who has not reached the age of majority[11];
- A "disabled" individual[12];
- A chronically ill individual[13]; or
- An individual not more than ten years younger than the employee.[14]

EDB status is determined as of the employee's date of death.[15] The preceding sentence notwithstanding, when a child of the employee reaches the age of majority, the child loses his or her status as an EDB, and all distribution rules under IRC § 401(a)(9) apply thereafter as if such child had never been an EDB.[16]

If the employee has more than one DB, and at least one of those beneficiaries is not an EDB, the employee is treated as not having an EDB unless: (1) any of such DBs is an EDB because he or she is a child of the employee who hadn't reached the age of majority at the time of the employee's death; or (2) the beneficiary designated by the employee is an applicable multi-beneficiary trust.[17]

V. SPECIAL RULES FOR SEE-THROUGH TRUSTS

A trust, as such, can't be a DB. However, if a trust satisfies certain requirements, described below, certain beneficiaries of the trust, also described below, are treated as DBs. Such a trust is referred to in the applicable Treasury Regulations as a "see-through trust."[18]

A. Definition of See-Through Trust

A trust is a see-through trust only if the following requirements are satisfied:

- It's valid under State law (or would be but for the fact that it's unfunded);
- It's irrevocable or becomes irrevocable upon the employee's death;

[10] IRC § 401(a)(9)(E)(ii)(I).
[11] IRC § 401(a)(9)(E)(ii)(II) and (E)(iii). The age of majority is age 21. Treas. Reg. § 1.401(a)(9)-4(e)(3).
[12] *See* IRC § 72(m)(7)).
[13] *See* IRC § 7702B(c)(2).
[14] IRC § 401(a)(9)(E)(ii); Treas. Reg. § 1.401(a)(9)-4(e).
[15] IRC § 401(a)(9)(E)(ii); Treas. Reg. § 1.401(a)(9)-4(e)(1).
[16] Treas. Reg. § 1.401(a)(9)-5(e).
[17] Treas. Reg. § 1.401(a)(9)-4(e)(2).
[18] Treas. Reg. § 1.401(a)(9)-4(f)(1)(i).

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- Its beneficiaries with respect to the deceased employee's interest in the plan are identifiable from the trust instrument[19]; and

- Certain documentation is provided to the plan custodian or trustee by October 31 of the calendar year following the calendar year that includes the employee's date of death.[20]

B. Types of See-Through Trusts

There are three types of see-through trusts:

- A "conduit trust" is a trust whose terms provide that, with respect to the deceased employee's interest in the plan, all distributions will, upon receipt by the Trustee, be distributed directly to, or for the benefit of, specified trust beneficiaries.[21]

- An "accumulation trust" is a see-through trust that isn't a conduit trust.[22]

- An "applicable multi-beneficiary trust" ("AMBT") is a trust with more than one beneficiary, all of whom are DBs,[23] and whose terms:

    - Identify one or more individuals, each of whom is disabled[24] or chronically ill[25]; and

    - Provide that no beneficiary, other than a disabled or chronically ill individual, has any right to the employee's interest in the plan until the death of all EDBs who are disabled or chronically ill.[26]

C. Recognition of Trust Beneficiaries

1. *Current Beneficiaries and Other Beneficiaries*

Certain trust beneficiaries are treated, and others are disregarded, as having been designated as beneficiaries of the employee under the plan. Any trust beneficiary who has a current beneficial interest (an interest that's not contingent on or delayed until the death of another

[19] Potential appointees if a power of appointment were exercised are disregarded for purposes of determining whether trust beneficiaries are identifiable. Treas. Reg. § 1.401(a)(9)-4(f)(5)(ii)(A).
[20] Treas. Reg. § 1.401(a)(9)-4(f)(2) and -4(h).
[21] Treas. Reg. § 1.401(a)(9)-4(f)(1)(ii)(A). It's clear a conduit trust may have multiple current beneficiaries. *Ibid*.
[22] Treas. Reg. § 1.401(a)(9)-4(f)(1)(ii)(B).
[23] For purposes of determining whether a trust may qualify as an applicable multi-beneficiary trust, an organization that's eligible to receive a "qualified charitable distribution" under IRC § 408(d)(8)(B) is treated as a designated beneficiary. IRC § 401(a)(9)(H)(v); Treas. Reg. § 1.401(a)(9)-4(g)(3).
[24] As defined in Treas. Reg. § 1.401(a)(9)-4(e)(4).
[25] As defined in Treas. Reg. § 1.401(a)(9)-4(e)(5).
[26] IRC § 401(a)(9)(H)(v); Treas. Reg. § 1.401(a)(9)-4(g).

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beneficiary) with respect to the deceased employee's interest in the plan is treated as a DB.[27] Additionally, any beneficiary of an accumulation trust who could receive distributions representing the deceased employee's interest in the plan that weren't distributed to beneficiaries described in the preceding sentence is treated as a DB.[28] However, any beneficiary of an accumulation trust who could receive distributions representing the deceased employee's interest in the plan solely because of the death of a beneficiary described in the preceding sentence (and who isn't a beneficiary having a current beneficial interest) is disregarded as a DB.[29]

2. *Applicable Multi-Beneficiary Trusts*

All beneficiaries of an AMBT who are disabled[30] or chronically ill[31] are treated as EDBs even if one or other beneficiaries aren't EDBs.[32]

3. *Powers of Appointment*

If a power of appointment is exercised, or restricted in its exercise, in favor of one or more appointees who are identifiable[33] by September 30 of the calendar year following the calendar year of the employee's death, those appointees are treated as DBs.[34] However, if, by that September 30, the power of appointment is not exercised, or restricted in its exercise, in favor of one or more appointees who are identifiable, each taker in default is treated as a DB.[35]

If a power of appointment is exercised after September 30 of the calendar year following the calendar year of the employee's death, then, beginning in the calendar year following the calendar year in which an appointee was added as a new beneficiary, the appointee and all beneficiaries of the trust that were treated as DBs before the addition of the new beneficiary will be treated as DBs.[36]

4. *Trust Modifications*

The existence of a State law permitting the beneficiaries of a trust to be changed after the employee's death by means of modification, decanting or reformation doesn't cause the trust to fail to qualify as a see-through trust for the reason that its beneficiaries aren't identifiable within the meaning of Treas. Reg. § 1.401(a)(9)-4(f)(5)(ii)(A).[37]

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[27] Treas. Reg. § 1.401(a)(9)-4(f)(3)(i)(A).
[28] Treas. Reg. § 1.401(a)(9)-4(f)(3)(i)(B).
[29] Treas. Reg. § 1.401(a)(9)-4(f)(3)(ii)(A).
[30] *Supra*, note 24.
[31] *Supra*, note 25.
[32] Treas. Reg. § 1.401(a)(9)-4(e)(2)(iii).
[33] *See* Treas. Reg. § 1.401(a)(9)-4(f)(2) and (f)(5)(i).
[34] Treas. Reg. § 1.401(a)(9)-4(f)(5)(ii)(A).
[35] *Ibid*.
[36] Treas. Reg. § 1.401(a)(9)-4(f)(5)(ii)(B) and -4(f)(5)(iv).
[37] Treas. Reg. § 1.401(a)(9)-4(f)(5)(iii)(A). The reference in the cited Treasury Regulation to a State law seems to be to various provisions of Article 4 of the Uniform Trust Code.

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If a modification, reformation or decanting results in removal of a trust beneficiary on or before September 30 of the calendar year following the calendar year of the employee's death, the removed beneficiary is disregarded as a DB.[38]

If a modification, reformation or decanting results in addition of a trust beneficiary on or before September 30 of the calendar year following the calendar year of the employee's death, the new beneficiary will be treated as a DB if the new beneficiary would have been recognized as a DB had he or she originally been named as a beneficiary.[39]

If a modification, reformation or decanting results in addition of a trust beneficiary after September 30 of the calendar year following the calendar year of the employee's death, then, beginning in the calendar year following the calendar year in which the new beneficiary was added, the new beneficiary and all beneficiaries of the trust that were treated as DBs before the addition of the new beneficiary will be treated as DBs.[40]

D. Separate Interests of Trust Beneficiaries

For purposes of applying the RMD rules, outlined below, beneficiaries' interests in a see-through trust are treated as separate if the trust instrument provides that the trust is to be divided immediately upon the death of the employee into separate see-through trusts (in which case those rules will apply separately to each separate trust).[41] A trust is considered immediately divided upon the death of the employee only if, as of the date of death, the trust is terminated and there's no discretion regarding to which of the separate trusts post-death distributions attributable to the employee's interest in the plan are allocated.[42] Administrative delays in dividing and terminating the original see-through trust are disregarded.[43]

VI. REQUIRED MINIMUM DISTRIBUTIONS

A. During Employee's Lifetime

During the employee's lifetime, the employee's entire interest in the plan must be distributed to him or her no later than his or her RBD or must be distributed, beginning not later than the RBD, over his or her life or the joint lives of the employee and a DB or over a period not extending beyond the life expectancy of the employee or the joint life and last survivor expectancy of the employee and the DB.[44]

RMDs are determined and must be paid annually. In general, the employee's RMD for each distribution calendar year is determined by dividing the account balance by the factor for the

[38] Treas. Reg. § 1.401(a)(9)-4(f)(5)(iii)(B).
[39] Treas. Reg. § 1.401(a)(9)-4(f)(5)(iii)(C).
[40] Treas. Reg. § 1.401(a)(9)-4(f)(5)(iii)(C) and -4(f)(5)(iv).
[41] Treas. Reg. § 1.401(a)(9)-8(a)(1)(iii)(B).
[42] Treas. Reg. § 1.401(a)(9)-8(a)(1)(iii)(C).
[43] *Ibid*.
[44] IRC § 401(a)(9)(A); Treas. Reg. § 1.401(a)(9)-2(a).

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employee's age as of the employee's birthday in that year using the Uniform Lifetime Table under Treas. Reg. § 1.401(a)(9)-9(c) (the "applicable denominator").[45] If, however, the employee's sole beneficiary is his or her surviving spouse who is more than 10 years younger than the employee, the employee's RMD for each distribution calendar year is determined by dividing the account balance by the factor for the joint and last survivor life expectancy using the employee and spouse's ages as of their respective birthdays in that year using the Joint and Last Survivor Table in Treas. Reg. § 1.401(a)(9)-9(d) (the "applicable denominator").[46]

B. Following Employee's Death on or After Required Beginning Date

Distributions from and after the employee's death on or after his or her RBD must be made at least as rapidly as they were being made at the time of the employee's death.[47] Implementing this rule, each year's RMD is to be determined by dividing the account balance by the applicable denominator.[48]

1. *Employee With Designated Beneficiary*

If the employee has a DB, the applicable denominator is the greater of the DB's remaining life expectancy and the employee's remaining life expectancy.[49] The preceding sentence notwithstanding, the entire account balance must be distributed to the DB, unless the DB is an EDB, by the end of the calendar year that includes the tenth anniversary of the employee's date of death.[50]

2. *Employee With No Designated Beneficiary*

If the employee has no DB, the applicable denominator is the employee's remaining life expectancy.[51]

C. Following Employee's Death Before Required Beginning Date

1. *Employee With Eligible Designated Beneficiary*

If the employee who died before his or her RMD has an EDB, each year's RMD for distributions from and after the employee's death is determined by dividing the account balance by the applicable denominator, which is the EDB's remaining life expectancy.[52] If the employee's surviving spouse is the employee's sole beneficiary, the commencement of distributions may be

[45] Treas. Reg. § 1.401(a)(9)-5(a)(1) and -5(c)(1).
[46] Treas. Reg. § 1.401(a)(9)-5(a)(1) and -5(c)(2).
[47] IRC § 401(a)(9)(B)(i); Treas. Reg. § 1.401(a)(9)-2(a)(4) and -5(d)(1).
[48] Treas. Reg. § 1.401(a)(9)-5(d)(1)(i).
[49] Treas. Reg. § 1.401(a)(9)-5(d)(1)(ii). If the employee's sole beneficiary is the employee's surviving spouse, and if the plan so provides, the spouse may elect to be treated as the employee for purposes of determining RMDs. IRC § 401(a)(9)(B)(iv); Treas. Reg. § 1.401(a)(9)-5(g)(3). *See*, *also*, Prop. Reg. § 1.401(a)(9)-5(g)(3)(ii)(B).
[50] IRC § 401(a)(9)(H); Treas. Reg. § 1.401(a)(9)-5(d)(1)(i) and -5(e).
[51] Treas. Reg. § 1.401(a)(9)-5(d)(1)(iii).
[52] IRC § 401(a)(9)(H); Treas. Reg. § 1.401(a)(9)-3(c)(4) and -3(c)(5)(i)(C).

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delayed until the end of the calendar year in which the employee would have attained the applicable age.[53] Additionally, if the employee's sole beneficiary is the employee's surviving spouse, and if the plan permits the spouse to elect to be treated as the employee for purposes of determining RMDs, the spouse is treated as having made that election.[54] The first sentence of this paragraph notwithstanding, the employee or the EDB may elect whether the rule summarized in the preceding sentence or the ten-year rule[55] applies.[56]

2. *Employee With Designated Beneficiary Who is Not an Eligible Designated Beneficiary*

If the employee who died before his or her RMD has a DB who isn't an EDB, the entire account balance must be distributed to the DB by the end of the calendar year that includes the tenth anniversary of the employee's date of death.[57]

3. *Employee With No Designated Beneficiary*

If the employee who died before his or her RMD has no DB, the entire account balance must be distributed to the DB by the end of the calendar year that includes the fifth anniversary of the employee's date of death.[58]

D. Determining Remaining Life Expectancies Following Employee's Death

From and after the employee's death, life expectancies are to be determined using the Single Life Table in Treas. Reg. § 1.401(a)(9)-9(b),[59] as follows:

1. *Employee*

The employee's remaining life expectancy is determined initially using the employee's age as of the employee's birthday in the calendar year of the employee's death.[60] Thereafter, the remaining life expectancy is determined by reducing that initial life expectancy by one for each calendar year that has elapsed after that first calendar year.[61]

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[53] Treas. Reg. § 1.401(a)(9)-3(d). If the employee's sole beneficiary is his or her surviving spouse and the surviving spouse dies during the period of delay, the rules summarized in this paragraph are to be applied as if the surviving spouse were the employee. Treas. Reg. § 1.401(a)(9)-3(e).
[54] IRC § 401(a)(9)(B)(iv); Treas. Reg. § 1.401(a)(9)-5(g)(3). *See*, *also*, Prop. Reg. § 1.401(a)(9)-5(g)(3)(ii)(A).
[55] Treas. Reg. § 1.401(a)(9)-3(c)(3).
[56] Treas. Reg. § 1.401(a)(9)-3(c)(5)(iii).
[57] IRC § 401(a)(9)(B)(ii) and (H); Treas. Reg. § 1.401(a)(9)-3(c)(3) and -3(c)(5)(i)(B).
[58] IRC § 401(a)(9)(B)(ii); Treas. Reg. § 1.401(a)(9)-3(c)(2) and -3(c)(5)(i)(A).
[59] Treas. Reg. § 1.401(a)(9)-5(d)(3)(i). Note, however, that, if the surviving spouse of the employee is the employee's sole beneficiary, and if the spousal election to be treated as the employee for purposes of determining RMDs (IRC § 401(a)(9)(B)(iv); Treas. Reg. § 1.401(a)(9)-5(g)(3)) applies, then the Uniform Lifetime Table (Treas. Reg. § 1.401(a)(9)-9(c)), not the Single Life Table, is to be used.
[60] Treas. Reg. § 1.401(a)(9)-5(d)(3)(ii).
[61] *Ibid*.

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2. *Non-Spouse Designated Beneficiary*

If the DB is not the employee's surviving spouse, the DB's remaining life expectancy is determined initially using the DB's age as of his or her birthday in the calendar year following the calendar year of the employee's death.[62] For subsequent calendar years, the DB's remaining life expectancy is determined by reducing that initial life expectancy by one for each calendar year that has elapsed after that first calendar year.[63]

3. *Spouse Designated Beneficiary*

If the surviving spouse of the employee is the employee's sole beneficiary, the surviving spouse's remaining life expectancy is redetermined each distribution calendar year up to and including the calendar year of the spouse's death using the surviving spouse's age as of the surviving spouse's birthday in such distribution calendar year.[64] For each calendar year following the calendar year of the spouse's death, the spouse's remaining life expectancy is determined by reducing the spouse's remaining life expectancy in the calendar year of the spouse's death by one for each calendar year that has elapsed after that calendar year.[65]

VII. PLANNING WITH TRUSTS

There are innumerable estate planning circumstances in which dispositions in trust are preferable to outright distributions.

A. Conduit Trusts

Conduit trusts are used primarily to preserve EDB status for trust beneficiaries who would clearly qualify as EDBs had they been designated as outright distributees of plan benefits at the employee's death.

1. *Surviving Spouse*

If plan benefits are payable to a conduit trust for the benefit of the employee's surviving spouse, the surviving spouse, as an EDB, will be considered the sole beneficiary under the plan, and RBDs during the surviving spouse's life will be determined as if the surviving spouse had been designated as the sole outright distributee of plan benefits.[66] Following the death of the surviving spouse, any remaining benefits will have to be paid no later than the end of the tenth calendar year after the calendar year in which the death of the surviving spouse occurred.[67]

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[62] Treas. Reg. § 1.401(a)(9)-5(d)(3)(iii).
[63] *Ibid*.
[64] Treas. Reg. § 1.401(a)(9)-5(d)(3)(iv).
[65] *Ibid*.
[66] Note that the surviving spouse's right to receive RBDs is insufficient, standing alone, to enable qualification of the trust for the estate tax marital deduction under IRC § 2056(b)(7). *See* Rev. Rul. 2006-26; 2006-1 C.B. 939.
[67] *See* Treas. Reg. § 1.401(a)(9)-4(f)(6), *Example 1*.

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2. *Eligible Designated Beneficiary Who is Not Surviving Spouse*

If plan benefits are payable to a conduit trust for the benefit of a non-spousal EDB, those benefits may be paid over the remaining life expectancy of the EDB (or, if there are multiple EDBs, over the remaining life expectancy of the oldest EDB). Following the death of the non-spousal EDB (or the oldest EDB), any remaining benefits will have to be paid no later than the end of the tenth calendar year after the calendar year in which such death occurred. The major exception to these rules, however, is that, if the non-spousal EDB is a minor child of the employee, the plan benefits payable to the conduit trust can no longer be paid over the EDB's remaining life expectancy from and after the point when that child has reached majority. From and after that time, any remaining benefits will have to be paid no later than the end of the tenth calendar year after the calendar year in which the child reached majority.

Theoretically, conduit trusts could be used for EDBs who are disabled or chronically ill. However, AMBTs, a type of accumulation trust, are ideally suited for such EDBs, and so conduit trusts for disabled or chronically ill EDBs are rarely, if ever, seen.

3. *Designated Beneficiary Who is Not an Eligible Designated Beneficiary*

If plan benefits are payable to a conduit trust for the benefit of a DB who is not an EDB, those benefits will have to be paid no later than the end of the tenth calendar year after the calendar year in which the employee's death occurred.

B. Accumulation Trusts

In general, if plan benefits are payable to an accumulation trust, those benefits will have to be paid no later than the end of the tenth calendar year after the calendar year in which the employee died. The exceptions to this general rule are as follows:

- If plan benefits are payable to an accumulation trust for the benefit of multiple EDBs, and if the Trustee elects to take annual life expectancy payments,[68] and for so long as there is no other person who is treated as having been designated as a beneficiary of the employee under the plan, those benefits may be paid over the remaining life expectancy of the oldest EDB.[69] Following the death of oldest EDB, any remaining benefits will have to be paid no later than the end of the tenth calendar year after the calendar year in which such death occurred.[70]

- If the trust instrument mandates full distribution of plan benefits to an individual who hasn't reached the age of majority and is the current beneficiary by the later of the end of the calendar year following the calendar year of the employee's death or the end of the calendar year that includes the tenth anniversary of the date on which

[68] IRC § 401(a)(9)(B)(iii).
[69] *See* Treas. Reg. § 1.401(a)(9)-4(f)(6), *Example 2*.
[70] *See* Treas. Reg. § 1.401(a)(9)-4(f)(6), *Example 4*.

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that individual reaches the age of majority, then any other beneficiary (regardless of whether a DB or a non-DB) who could receive plan benefits if that individual dies before full distribution to that individual, but doesn't receive any such benefits, is not treated as having been designated as a beneficiary of the employee under the plan.[71] Thus, if and for so long as such individual is an EDB, plan benefits may be paid over the remaining life expectancy of the EDB.

- Except as summarized in the preceding bullet point, if one or more beneficiaries are non-DBs:
    - If the employee dies before his or her RBD, plan benefits will have to be paid no later than the end of the fifth calendar year after the calendar year in which the employee's death occurred.
    - If the employee dies on or after his or her RBD, plan benefits may be paid over the employee's then remaining life expectancy.
- Plan benefits payable to an AMBT may be paid over the remaining life expectancy of the EDB (or, if there are multiple EDBs, over the remaining life expectancy of the oldest EDB).[72] This rule applies even if a non-EDB is also named as a beneficiary.[73]

VIII. AVOIDING PENALTIES APPLICABLE TO QUALIFIED PLANS AND IRAS

A. Early Distributions

In general, if an employee or a beneficiary receives a distribution from a plan before reaching 59½ years of age, a 10% additional tax will be imposed on the amount included in gross income unless the distribution meets the requirements for a statutory exception.[74]

If a distribution is "made to a beneficiary (or to the estate of the employee) on or after the death of the employee," the distribution will not be subject to the 10% additional tax.[75] A beneficiary will not be able to take advantage of this rule if the beneficiary rolls over the funds from the plan or IRA into his or her own plan or IRA, or treats the predeceased spouse's plan or IRA as if it were his or her own, and thereafter withdraws funds.[76]

Thus, if a surviving spouse is under age 59½, rolling over his or her interest in the predeceased spouse's plan or IRA, or treating the predeceased spouse's plan or IRA as his or her

[71] Treas. Reg. § 1.401(a)(9)-4(f)(3)(ii)(B).
[72] IRC § 401(a)(9)(H)(iv); Treas. Reg. §§ 1.401(a)(9)-5(f)(1).
[73] Treas. Reg. § 1.401(a)(9)-4(e)(2)(iii).
[74] IRC § 72(t).
[75] IRC § 72(t)(2)(A)(ii).
[76] *See Ozimkoski v. Commissioner*, T.C. Memo. 2016-228; *Sears v. Commissioner*, T.C. Memo. 2010-146; *Gee v. Commissioner*, 127 T.C. 1 (2006).

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own, may not be an appropriate option if the surviving spouse will likely need any of the funds in the plan or IRA before reaching that age. One strategy for a younger surviving spouse's taking advantage of rollover opportunities is to keep in the predeceased spouse's plan or IRA only that amount the surviving spouse anticipates needing before he or she reaches age 59½. Funds comprising what remains in the predeceased spouse's plan or IRA can be distributed to the surviving spouse in a manner that satisfies the applicable RMD rules and meets the surviving spouse's needs. The surviving spouse can then rollover the balance of the predeceased spouse's plan or IRA.

Another well-known exception to application of the 10% additional tax on premature distributions applies to distributions made as part of a series of substantially equal periodic payments (at least annually) for the employee's life or life expectancy or the joint lives (or joint life expectancies) of the employee and the designated beneficiary.[77] If from an employer plan, distributions must begin after separation from service.[78] The downside of implementing this strategy is that the recipient's ability to change the amount of distributions during the rest of his or her life is limited.[79]

There are numerous other exceptions to the penalty on early distributions under IRC § 72(t). Some of the more common exceptions include the following:

- Distributions due to total and permanent disability.[80]
- IRA distributions made for qualified higher education expenses.[81]
- IRA distributions up to $10,000 for the purpose of purchasing a first home.[82]
- Any distribution (except distributions from an IRA) to an alternate payee pursuant to a qualified domestic relations order.[83]
- Distributions from a plan (not an IRA) that the participant receives after separation from service if the separation occurs in or after the year in which the participant reaches 55 years of age (50 for public service employees).[84]

[77] IRC § 72(t)(2)(A)(iv).
[78] IRC § 72(t)(3)(B).
[79] *See* Rev. Rul. 2002-62, 2002-42 I.R.B. 710.
[80] IRC § 72(t)(2)(A)(iii).
[81] IRC § 72(t)(2)(E).
[82] IRC § 72(t)(2)(F).
[83] IRC § 72(t)(2)(C), (t)(3)(A).
[84] IRC § 72(t)(2)(A)(v), (t)(3)(A), (t)(10).

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B. Failure to Take a Required Minimum Distribution

If the full amount of an RMD is not made in any year, or no RMD is made at all in any year, IRC § 4974(a) imposes a penalty on the person who would have been the recipient of the distribution. The penalty is 50% of the amount that was supposed to be distributed but was not.[85]

An individual who has failed to take an RMD, or the full amount of the RMD, must file Form 5329, Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts, with such individual's income tax return for the year at issue. If a Form 5329 is filed, the Internal Revenue Service ("IRS") generally has three years from the date of filing to assess the penalty.[86]

The IRS has the discretion to grant a waiver of the penalty. IRC § 4974(d) provides that the penalty may be waived if the payee "establishes to the satisfaction of the Commissioner" that: "(1) the shortfall…in the amount distributed during any taxable year was due to reasonable error; and (2) reasonable steps are being taken to remedy the shortfall."[87] The request for a waiver is made on Form 5329. The taxpayer does not have to pay the penalty as a condition to requesting the waiver.

C. Excess Contributions

The Internal Revenue Code imposes an additional tax for contributions made by a taxpayer to a traditional or Roth IRA in any year that is in excess of the limit imposed on such taxpayer for deductible contributions. The tax is equal to six percent of the amount of the excess contributions to such individual's accounts.[88] "Contributions" for purposes of this tax does not include rollover contributions.

A taxpayer can withdraw some or all of the taxpayer's excess contributions for a given year, and such contributions will be treated as not having been contributed if: (1) the taxpayer makes the withdrawal by the due date, including extensions, of the tax return for the year at issue; (2) the taxpayer does not claim a traditional IRA deduction for the withdrawn contributions; and (3) the taxpayer withdraws any earnings on the withdrawn contributions and includes the earnings in gross income.[89] To the extent excess contributions aren't withdrawn, the IRA owner can treat them as an additional IRA contribution for a later year if the IRA owner does not contribute the maximum amount for that later year. This carryforward is automatic even if the IRA owner does not claim the carryforward amount as an IRA contribution. The additional tax will continue to

[85] Treas. Reg. § 54.4974-1.
[86] IRC § 6501(a).
[87] Treas. Reg. § 54.4974-2, A-7(a).
[88] IRC § 4973(a) (listing other accounts and annuities that are subject to this additional tax as well); Notice 2025-67, 2025-49 I.R.B. 761, December 1, 2025 (limits on deductible contributions for 2026).
[89] IRC §§ 408(d)(4); 4973(b) and (f).

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apply for each year in which the excess contribution is not withdrawn or the carryforward amount exceeds the deductible amount.[90]

[90] IRC § 219(f)(6).

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Certificate of Attendance

_____
(Participant Name)

_____
(Attorney Bar Number)

Has successfully completed the Cannon Financial Institute, Inc. course:

Qualified Retirement Plans and IRAs – Planning Under SECURE 2.0 Act of 2022 and 2024 Final Regulations

November 17, 2026

CANNON FINANCIAL INSTITUTE, INC. CORPORATE SEAL GEORGIA

Laurie Sebestyen
Professional Education Coordinator

Continuing Legal Education Credits for this course are as follows:
The following states have been approved for 1.5 hours of General Credit: (Course number is indicated in parenthesis): Alabama, Arkansas (EMP110342), California, Delaware, Georgia, Idaho, Illinois, Iowa (432964), Kentucky (282763), Louisiana, Maine, Minnesota (534912), Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, North Dakota, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee (Distance Ed), Texas (174299774), Utah, Vermont, Virginia, Washington, Wisconsin, & Wyoming

These states have been approved for the following General Credit: Colorado – 2 hours, Florida - 2 hours (2508948N) including 2.0 for the following: Wills, Trusts & Estates, Missouri –1.8 hours (775756), Oklahoma – 2.0 hours, West Virginia – 1.8 hours

The following states either do not require/do not accept outside CLE Credit/or do not accept teleconference calls for CLE Credit: District of Columbia, Maryland, Massachusetts, Michigan & South Dakota
The following states have special circumstances:
Alaska-Attorneys can use this certificate to submit to Alaska State Bar for 1.5 credits
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Connecticut-Attorneys can use this certificate to submit to Connecticut MCLE 1.5 credits
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****As required by the following State Bars, Cannon will submit the mandatory attendance rosters for the attorneys seeking CLE credits **ONLY** in the following states: Alabama, California, Delaware, Georgia, Idaho, Illinois, Kansas, Louisiana, Maine, Montana, Nebraska, Nevada, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Washington, and West Virginia. ****

Any questions regarding CE credit, please contact Laurie Sebestyen at (706) 353-3346.
Fax (706) 353-3994, Email lsebestyen@CannonFinancial.com
355 Oneta St. Bldg D 500, Athens, Georgia 30601

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Qualified Retirement Plans and IRAs - Planning Under SECURE 2.0 Act of 2022 and 2024 Final Regulations

November 17th, 2026

Laurie Sebestyen
Professional Education Coordinator

- **Certified Public Accountant** — **1.5 credit hours**
  "In accordance with the standards of the National Registry of CPE Sponsors, CPE credits have been granted based on a 50-minute hour."
  Instructional delivery method: Group Internet Based
  NASBA #103655; Field of Study-Finance
  Knowledge Level-Intermediate
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  Course # VRUGV-T-00227-26-O
- **Certified Financial Planner (CFP™)** — **1.5 credit hours**
- **Accredited Fiduciary Investment Manager (AFIM™)** — **1.5 credit hours**
- **Certified Wealth Strategists (CWS®)** — **2.0 credit hours**
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Any questions regarding CE credit, please contact Laurie Sebestyen at (706) 389-7645.
Fax (706) 353-3994, Email lsebestyen@CannonFinancial.com
355 Oneta St. Building D 500, Athens, GA 30601

CERTIFICATE OF ATTENDANCE FOR CALIFORNIA MCLE

To be Completed by the Provider

Provider: Cannon Financial Institute (CA Provider #12179)

Subject Matter/Title: Qualified Retirement Plans and IRAs – Planning Under SECURE 2.0 Act of 2022 and 2024 Final Regulations

Date and Time of Activity: November 17, 2026, 1:00-2:30 PM ET, 12:00-1:30 PM CT, 11:00AM-12: 30 PM MT, 10:00AM- 11:30 AM PT

Location: Teleconference

Length of Presentation: 1.5 Hours

ELIGIBLE CALIFORNIA MCLE CREDIT:

TOTAL HOURS: 1.5

Legal Ethics:

Elimination of Bias in the Legal Profession:

Competence:

To Be Completed by the Attorney after Participation in the Above-Name Activity

By signing below, I certify that I participated in the activity described above and am entitled to claim the following California MCLE credit hours:

TOTAL HOURS: _____

(You may not claim credit for the following sub-fields unless the provider is granting credit in these areas as listed above.)

Legal Ethics:_____

Elimination of Bias in the Legal Profession:_____

Competence: _____

Attorney Signature:

REMINDERS: Keep this record of attendance for four years. In the event that you are audited by the State Bar, you may be required to submit this record of attendance. Send this to the State Bar only if you are audited. You must sign in on the Official Record of Attendance for California MCLE maintained by this provider in order for these hours to qualify for California MCLE credit.

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Certificate of Attendance

_____

(Participant Name)

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(Colorado Attorney Registration Number)

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Qualified Retirement Plans and IRAs - Planning Under SECURE 2.0 Act of 2022 and 2024 Final Regulations

(868410)

November 17, 2026

CANNON FINANCIAL INSTITUTE, INC. CORPORATE SEAL GEORGIA

Laurie Sebestyen
Professional Education Coordinator

Continuing Legal Education Credits for this course are as follows:

Colorado – 2.0 General Credits

****As required by the State of Colorado, attorneys must submit their own credits.

Any questions regarding CE credit, please contact Laurie Sebestyen at (706) 389-7645
Email lsebestyen@CannonFinancial.com
355 Oneta St. Building D 500, Athens, Georgia 30601

Virginia MCLE Board

Certification of Attendance (Form 2)

Report attendance online at www.vsb.org. Keep this form for your records.

Name: _____ **VSB ID#:** _____

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_____

City **State** **Zip**

Course ID: NPP0174

Sponsor: Cannon Financial Institute

Title: Qualified Retirement Plans and IRAs – Planning Under SECURE 2.0 Act of 2022 and

Type: Live

Format: Webcast

Credits:	1.50	0.00	0.00
	CLE	**(Ethics)**	**Well-being**

Credit Certification

Date completed: _____ **Location:** _____

Do not leave blank or form will not be processed.

By my signature below I certify:

1. I attended a total of _____ (hrs/mins) of approved CLE of which (_____) (hrs/mins) were approved Ethics and _____(hrs/mins) were approved Well-being. (Claim credit for actual time in attendance. Round to the nearest half hour. E.g. 75 min=1.5 CLE hours.)
2. The sessions for which I am claiming credit had written instructional materials to cover the subject matter.
3. I participated in this program in a setting physically suitable for the course.
4. I was given the opportunity to interact with the presenter (in real time if the program was live or by some other means if the program was pre-recorded).
5. I understand I may not claim credit for any course/segment for which credit has already been claimed in the current or preceding CLE periods.
6. I understand that a materially false statement shall be subject to appropriate disciplinary action.

_____ _____

Date **Signature**

MCLE requirement: Paragraph 17, Section IV, Part Six of the Rules of the Supreme Court of Virginia and MCLE Board Regulations. Completion deadline: October 31. Reporting deadline: December 15. Fees are assessed for failure to comply with MCLE deadlines.

Virginia MCLE Board | Virginia State Bar | 1111 East Main Street, Suite 700 | Richmond, VA 23219-0026
(804) 775-0577 | MCLE@vsb.org