LINDA C. SLIDER

ATTORNEY AT LAW

P.O. BOX 5756
WALNUT CREEK, CALIFORNIA 94596

TEL: (925) 932-8450
FAX: (925) 938-4844
LINDA@SLIDERLAW.COM

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Dear Clients and Friends:

I want to update you on some recent tax relief that the IRS has issued for certain taxpayers with respect to taking 2023 required minimum distributions ("RMDs") from retirement accounts. As you review this letter, please note that (i) this tax relief applies only to certain very specific situations, and (ii) if you believe that you might qualify for the first type of tax relief described below, time is of the essence.

TAX RELIEF FOR TAXPAYERS WHO WERE BORN IN 1951 AND WHO TOOK 2023 DISTRIBUTIONS. Under the original Secure Act (passed in 2019), persons who were born in 1951 and who turn age 72 this year would have been required to start taking RMDs this year. However, with the passage of Secure Act 2.0 in December 2022, the RMD starting age was extended to age 73. This means that persons who were born in 1951 do not have to start taking RMDs until 2024.

The problem is that a taxpayer born in 1951 may not have heard about the extension of their RMD starting age and may have taken an unnecessary distribution in 2023. Recognizing this problem, the IRS has issued relief in the form of an extended period to roll the 2023 distribution back up into the retirement account. IRS Notice 2023-54 provides that a taxpayer born in 1951 may re-deposit an inadvertent distribution made between January 1, 2023, and July 31, 2023, back to the taxpayer's retirement account by September 30, 2023, and avoid taxation on the distribution. This relief applies to even if the taxpayer had already made a qualifying 60-day rollover within the past 12 months.

If you were born in 1951 and would like to re-deposit a 2023 distribution made between January 1, 2023, and July 31, 2023, please note that time is of the essence. You need to complete your re-deposit of the 2023 distribution no later than September 30, 2023. Your retirement account custodian should record the deposit as a qualifying roll-over. Please note that any such qualifying rollover under this specific tax relief will be treated as a qualifying 60-day rollover which will precludes additional 60-day rollovers for the next 12 months.

If you were born in 1951 and took a distribution after July 31, 2023, you may still be eligible to re-deposit your 2023 distribution using the standard 60-day rollover rules to avoid recognizing taxable income. The rollover must be completed within 60 days of the distribution and you must not have made a prior 60-day rollover within the past 12 months.

Again, please note that this relief is targeted only for taxpayers born in 1951. All older taxpayers must take their 2023 RMDs as required, and younger taxpayers are subject to the standard 60-day rollover rules if they want to re-deposit a distribution and avoid taxation.

RELIEF FOR NON-ELIGIBLE DESIGNATED BENEFICIARIES TO SKIP 2023 RMDS. The original Secure Act provides that, for retirement account inherited from owners (or plan participants) who died in 2020 or later, most non-spouse beneficiaries of can no longer stretch RMDs from the inherited retirement account over their lifetime. Only spouses, minor children of the decedent, persons who were not more than 10 years younger, and disabled or chronically ill beneficiaries (referred to as "eligible designated beneficiaries"), or qualifying trusts for eligible designated beneficiaries, may stretch an inherited IRA out over their life expectancy (or for their life expectancy until attaining their majority and then "flipping" to the 10-Year Rule, in the case of minor children). All other designated beneficiaries ("non-eligible designated beneficiaries"), and qualifying trusts for non-eligible designated beneficiaries, are subject to a 10-year payment rule, which requires that the inherited retirement account be completely distributed no later than December 31 of the 10th year following the retirement owner's death (the so-called "10-Year Rule").

At the time the original Secure Act was passed, most financial institutions and practitioners understood the 10-Year Rule to mean that a non-eligible designated beneficiary could delay all distributions from a retirement account inherited on or after 2020 until the last year of the 10-Year Rule. However, in 2022, the IRS issued proposed regulations which stated that if the decedent had already reached their "required beginning date" at the time of death [generally, the April 1 after the decedent reaches age 72 (or 73 for taxpayers born in 1951)], the non-eligible designated beneficiary would have to take RMDs each year in years 1-9 and then fully distribute the remaining balance of the inherited retirement account in the 10th year.

Given that no one had expected the IRS to take this position, the IRS issued relief for non-eligible designated beneficiaries for years 2021 and 2022. Specifically, non-eligible designated beneficiaries who inherited a retirement account from a decedent in 2020 or later were not required to take an RMD distribution in 2021 – 2022.

Since the proposed regulations still have not been finalized, the IRS has now extended this tax relief for non-eligible designated beneficiaries to 2023. Specifically, non-eligible designated beneficiaries who inherited a retirement account from a decedent who died in 2020 or later will not be assessed a penalty if they fail to take an RMD distribution 2023. So, if you are a non-eligible designated beneficiary who inherited a retirement account in 2020 or later from a decedent who died after reaching their "required beginning date", no penalties will be assessed as the result of your failure to take your annual RMDs for 2021, 2022 and/or 2023.

As of this writing, RMDs (and penalties on failures to take RMDs) are scheduled to resume in 2024, and non-eligible designated beneficiaries are still required to complete the full distribution of their inherited retirement account by the deadline established under the 10-Year Rule. For example, if you are a non-eligible designated beneficiary who inherited a retirement account in 2020, you still need to complete the full distribution of your inherited retirement account by December 31, 2030. As a result, even though you will not be subject to any penalty for failing to take your 2023 RMD, you may still want to consider whether taking a 2023 distribution might be beneficial to smooth out the income tax consequences and avoid "income bunching" in future years at higher tax rates.

Please note that if you are a non-eligible designated beneficiary who inherited a retirement in or after 2020 and you already took your 2023 RMD, the IRS offers no tax relief for you. The IRS has provided no process for you to roll your distribution back into your inherited retirement account on a tax-free basis (the 60-day rollover rule is not available because the distribution is still considered an RMD, with a waived penalty).

Finally, please note that this tax relief does not apply to persons who are eligible designated beneficiaries and who take RMDs based on life expectancy (again, spouses, minor children of the decedent, persons who were not more than 10 years younger, disabled or chronically ill beneficiaries, and qualifying trusts for an eligible designated beneficiary) or to persons who inherited retirement accounts prior to 2020. These taxpayers must still take their 2023 RMDs in accordance with the usual rules.

If you have any question about whether you might qualify for the offered tax relief, or if you or your accountant would like more details about any item discussed in this letter, please do not hesitate to call.

Very truly yours,

Linda Slider

Linda C. Slider