CORIENT

Wealth Planning and Wealth Transfer Grand Rounds

SECURE Act(s): After the Final Regulations

Prepared for: February Webinar – For Internal Use Only
February 18, 2025

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Secure Act(s): After the Final Regulations

1. Secure Act(s) and Final Regulations Overview

SECURE Act(s) Overview

SECURE Act

- Setting Every Community Up for Retirement Enhancement
- Passed in 2019 and became effective in January 2020
- Eliminated the Stretch IRA for most non-spouse beneficiaries and created the 10-Year Rule

SECURE Act 2.0

- Passed in 2022 and became effective January 2023
- Expanded upon SECURE Act and includes modifications to the RMD age, increased catch-up contributions and Roth contribution adjustments

https://www.kitces.com/blog/secure-act-2-0-irs-regulations-rmd-required-minimum-distributions-10-year-rule-eligible-designated-beneficiary-see-through-conduit-trust/ . The information provided in this case study should not be considered investment, tax, accounting or legal advice. We encourage you to speak with a qualified professional regarding your scenario and the then-current applicable laws and rules.

SECURE Act(s) Overview

OLD REQUIRED DISTRIBUTIONS GAME

- Stretch IRA out based on beneficiary's life expectancy
- Look to identify youngest beneficiary to stretch taxable income over several years
- Trust rules to identify designated beneficiaries were unclear

NEW REQUIRED DISTRIBUTION GAME

- Stretch is limited to 10 years unless you find an "Eligible Designated Beneficiary"
- New beneficiary title called Eligible Designated Beneficiary gets special treatment; otherwise, designated beneficiary's benefits are paid out over 10 years.
- For trusts, improved rules for identifying Eligible Designated Beneficiaries and Designated Beneficiaries.

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SECURE Act(s) Definitions

DESIGNATED BENEFICIARY (DB):

- Any individual designated as a beneficiary

ELIGIBLE DESIGNATED BENEFICIARY (EDB):

- Surviving Spouse
- Child who has not reached age of majority
- Disabled individual
- Chronically Ill
- Individual not more than 10 years younger than owner

REQUIRED BEGINNING DATE (RBD):

April of the year after the year the owner:

- Turns 75 (if born after 1/1/1960)
- Turns 73 (if born 1/1/1951 - 12/31/1959)
- Turns 72 (if born 7/1/49 to 12/31/50)

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Final Regulations

In July 2024, the IRS released the Final Regulations regarding the SECURE Act's provisions

Required Minimum Distribution ("RMD") Requirement for Non-Eligible Designated Beneficiaries

- Non-Eligible Designated Beneficiaries must take RMDs annually, with the entire account liquidated under the 10-year rule.
- Beneficiaries who should have taken distributions in 2021-2024, but didn't, would not be subject to penalty and would not be required to make up the missed distributions

Spousal Beneficiary "hypothetical" RMDs

- For surviving spouses who initially elected to use the 10-year rule and then later decide to treat the account as their own
- The surviving spouse would need to make-up for any RMDs that they would have needed to take had the funds been in their own account all along.

Distribution Rules for Minor Children

- A minor child is considered a "minor" until their 21st birthday, at which point the 10-year rule applies
- The minor children must continue taking annual stretch-style RMDs during the 10-year rule period, regardless of whether the original owner died before, on, or after the Required Beginning Date.

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Designated Roth Accounts

- If the participant's entire interest in a retirement plan is in a Designated Roth Account, the participant will be deemed to have died prior to their Required Beginning Date.
- Non-Eligible Designated Beneficiaries will not be required to take distributions in year 1-9, allowing the Roth account to grow for 10 years.

See-Through Trust Rules

- New definitions for which beneficiaries of a see-through trust are considered beneficiaries of the retirement account and which can be disregarded.
- Rules on when a see-through trust is divided into separate trusts upon the death of the retirement account owner

Annuity Payments

- If a retirement account contains both annuity and non-annuity assets, the assets can be aggregated together when calculating the RMD
- Payments from an annuity can count against the total RMD for both the annuity and non-annuity assets

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Secure Act(s): After the Final Regulations

2. Eligible vs Non-Eligible Designated Beneficiaries

Eligible vs. Non-Eligible Designated Beneficiary

This is a new class of beneficiaries excluded from the 10-year rule and use a life expectancy payout.

However, if owner's death is prior to the required minimum distribution, a 10-year payout can be elected by the owner or beneficiary and some plans may specify a 10-year payout.

SURVIVING SPOUSE OF OWNER

CHILD OF OWNER WHO HAS NOT REACHED AGE OF MAJORITY

Age of majority is defined as age 21

So final distribution is year turning age 31

DISABLED

New definitions provided for those over and under age 18

Applies to those disabled for Social Security

Documentation requirement

CHRONICALLY ILL

Certification that the beneficiary is unable to perform at least two activities of daily living for an indefinite period that is reasonable expected to be lengthy in nature

Documentation Requirement

NOT MORE THAN 10 YEARS YOUNGER THAN EMPLOYEE

Based on dates of birth not calendar years of birth.

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Spouse as Beneficiary

Generally, not much changed for a spousal beneficiary

A SURVIVING SPOUSE CAN "ROLLOVER" AN IRA; OR ELECT TO TREAT THE IRA AS HIS OR HER OWN

- For a rollover, spouse doesn't have to be the sole beneficiary and no time frame in which to rollover.
- Spouse can rollover benefits received indirectly through a trust or estate
- To treat the IRA as his or her own, spouse must be the sole beneficiary
- For both, spouse utilizes the Uniform Lifetime Table

A SURVIVING SPOUSE IS AN ELIGIBLE DESIGNATED BENEFICIARY

- Spouse is only beneficiary
- Utilize the New Single Life Table but recalculate life expectancy each year
- Distributions can be delayed until the end of the calendar year in which the decedent would have reached RBD.

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Spouse as Beneficiary

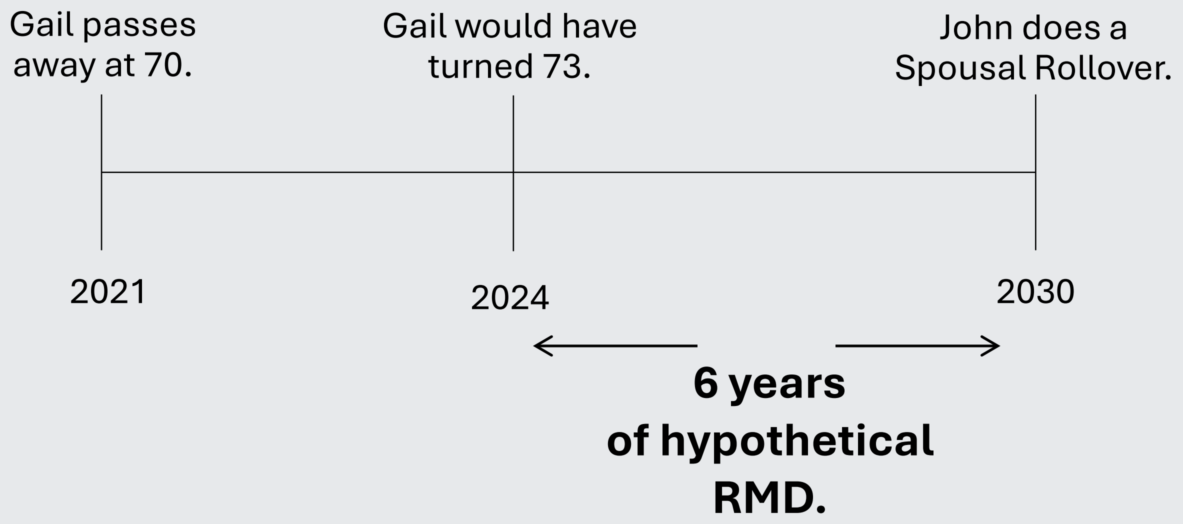
Hypothetical RMD Scenarios

For example, a married couple Gail, age 70 and John age 70 in 2021. John doesn't need the funds and since Gail was RBD, he decides to elect the 10-year rule.

Later in 2030, John decides to treat the account as his own IRA.

John would need to calculate and take the RMDs that he would have been subject to in every year, beginning in 2024, the year Gail would turn 73.

Once satisfied, John will take RMDs according to his life expectancy.



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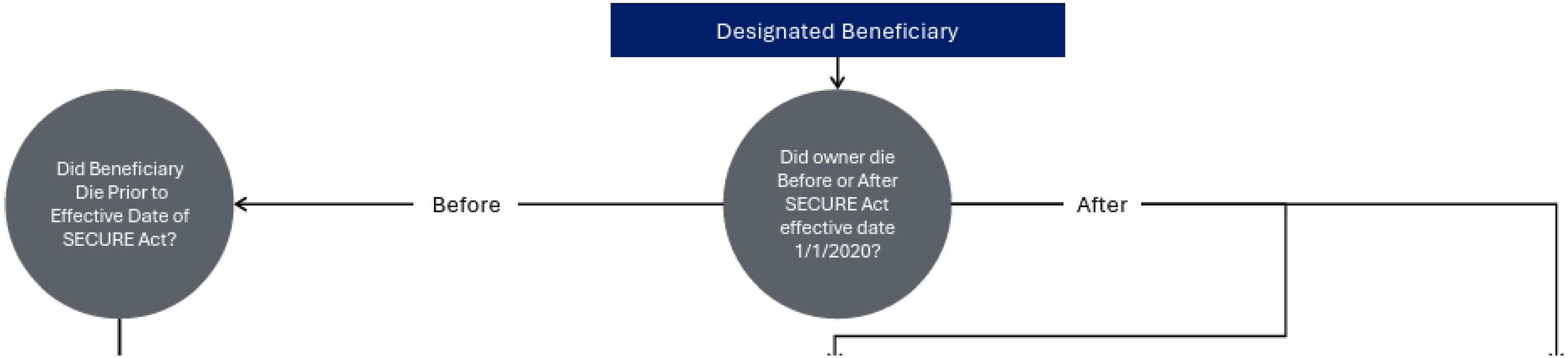
Designated Beneficiary

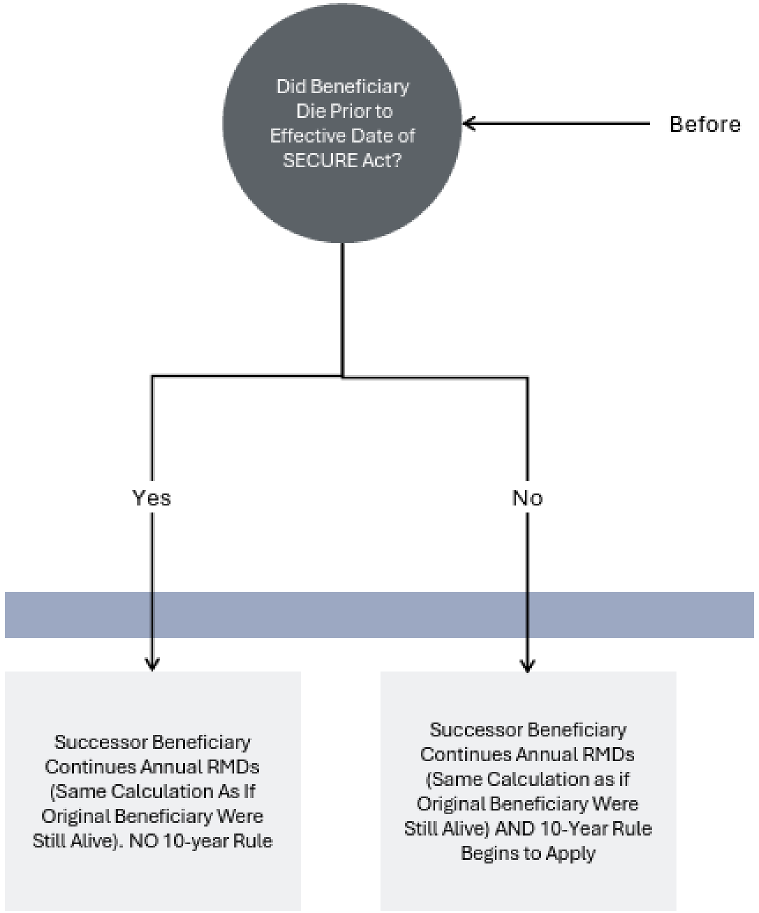
Flow Chart Decision Tree



https://wealthnet.corient.com/content/dam/ci-docshare/documents/pdfs/wealth-planning/SECURE%20Act%20Distribution%20Flowchart%20-%20August%202024.pdf
Jeff Levine, CFP, CPA/PFS @CPAPlanner. 1. Eligible Designation Beneficiary constitutes surviving spouses, disabled persons, chronically ill persons, persons <10 years younger than the descendent, minor children, some see-through trusts benefitting persons above. 2. Non-Eligible Designation Beneficiary constitutes most non-spouse beneficiaries, some see-through trusts benefitting persons above. 3. RBD = Required beginning date or the date in which you must start taking Required Minimum Distributions (RMDs).

Designated Beneficiary

Flow Chart Decision Tree



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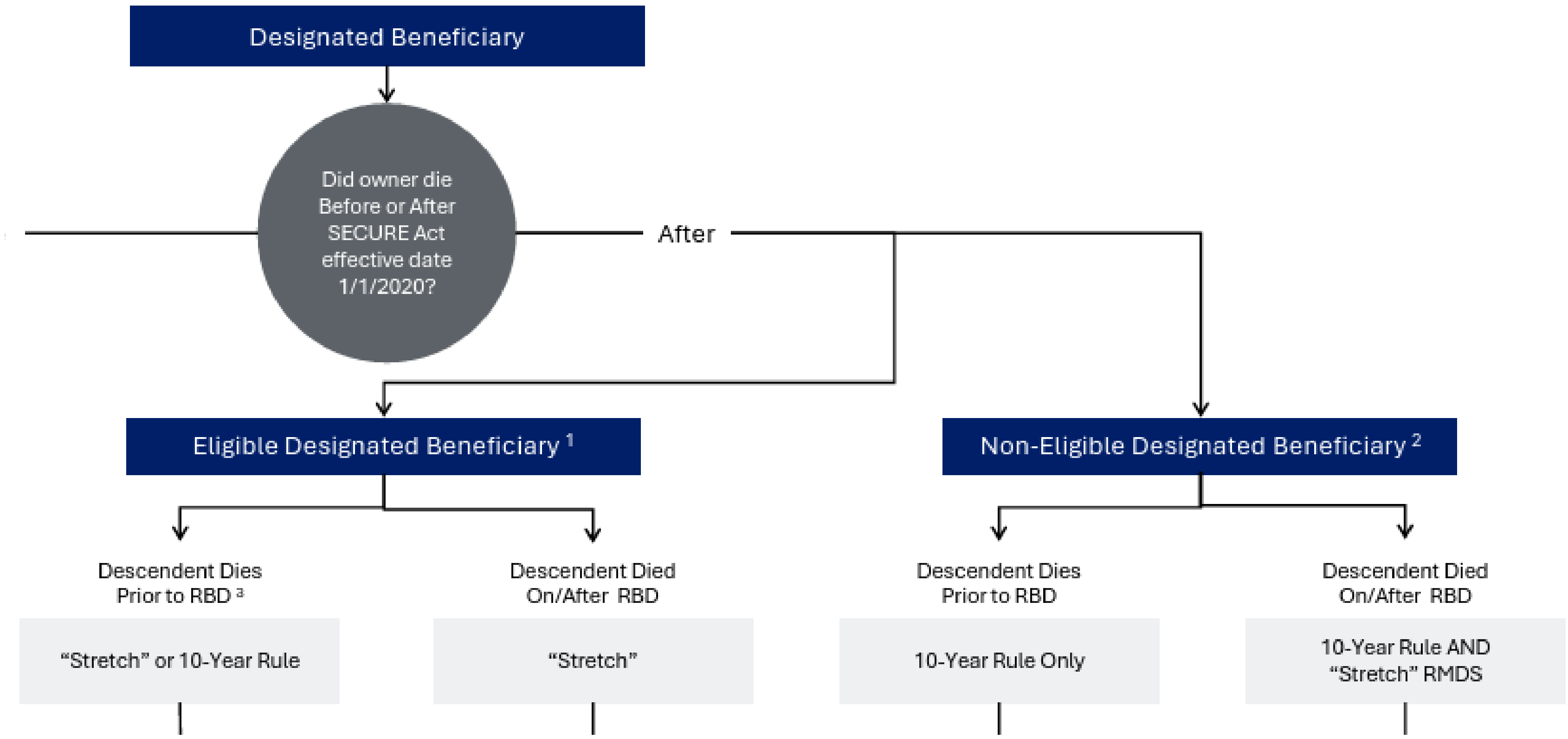
Designated Beneficiary

Flow Chart Decision T



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Secure Act(s): After the Final Regulations

3. Calculation Examples and Tools

Calculation Examples

DISTRIBUTION PRIOR TO RBD

- 10-year rule with NO required minimum distributions.
- Completely distributed by the end of the calendar year that includes the 10th anniversary of the date of the decedent's death.

DISTRIBUTION AFTER RBD

- 10-year rule with required minimum distributions.
- The applicable dominator is the greater of the DB's life expectancy; or the decedent's remaining life expectancy.
- All life expectancies utilize the single life table (subtraction method)
- Completely distributed by the end of the calendar year that includes the 10th anniversary of the date of the decedent's death.

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Designated Beneficiaries

With the Final Regulations, there will no longer be relief for a missed RMD. The IRS updated the Single Life Table in 2022. Beneficiaries who inherited IRAs before 2021 should adjust the factors to use the new tables accordingly.

NEW RMD TABLE EFFECTIVE FOR ALL DESIGNATED BENEFICIARIES IN 2022.

- All designated beneficiaries utilize the “subtraction method”.
- Look up the designated beneficiary’s life expectancy on the table and that’s the applicable denominator to divide into the 12/31 account balance.
- Future applicable denominators are reduced by 1 for each year thereafter.

ORIGINAL OWNER IS BORN 01/01/1940 AND DIES 11/13/2020.

- Beneficiary is a non-spouse, non-eligible designated beneficiary born on 4/23/1966. 12/31/2024 account balance is $125,000.
- Under normal circumstances, the beneficiary has until 12/31 of the year following the death to take the RMD. In this case, the beneficiary was 55 in 2021.
- The RMD factor for a 55 year old is 31.6. It’s been 4 years, so the 2025 RMD factor is 27.6. All following years will be reduced by 1.
- $125,000/27.6 = $4,528.99

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Calculation Tools

Schwab and Fidelity both have tools that can help you calculate the RMD amount for clients. Schwab has a "rules calculator" that can help explain which set of Secure Act rules would apply in a particular client situation.

Corient is not affiliated with Schwab or Fidelity. Corient is not responsible for the accuracy or completeness of the information generated from any such tools referenced on this page. Please check your information carefully before and after using such tools. Use of third-party calculators are at your own risk. Results generated are based on hypothetical assumptions and cannot predict or project the return of any specific investments. The information provided in this case study should not be considered investment, tax, accounting or legal advice. We encourage you to speak with a qualified professional regarding your scenario and the then-current applicable laws and rules. Actual results vary depending on market conditions and client circumstances.

Schwab Inherited IRA Distribution Rules Calculator

https://www.schwab.com/ira/ira-calculators/inherited-ira-distribution-calculator

Schwab IRA RMD Calculator

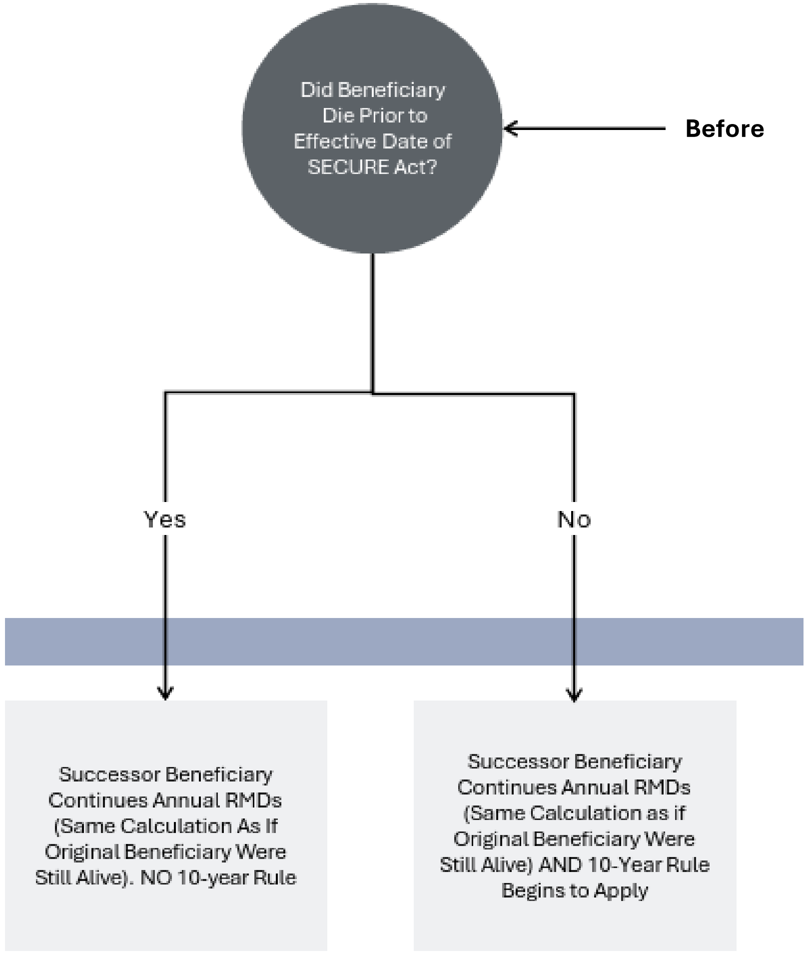
https://www.schwab.com/ira/ira-calculators/inherited-ira-rmd-calculator

Fidelity Inherited IRA Overview and Calculator

https://calculators.ssnc.cloud/Fidelity/beneficiaryira

Successor Beneficiary Rules

How to handle when an Inherited IRA owner passes away and then passes to a Successor Beneficiary



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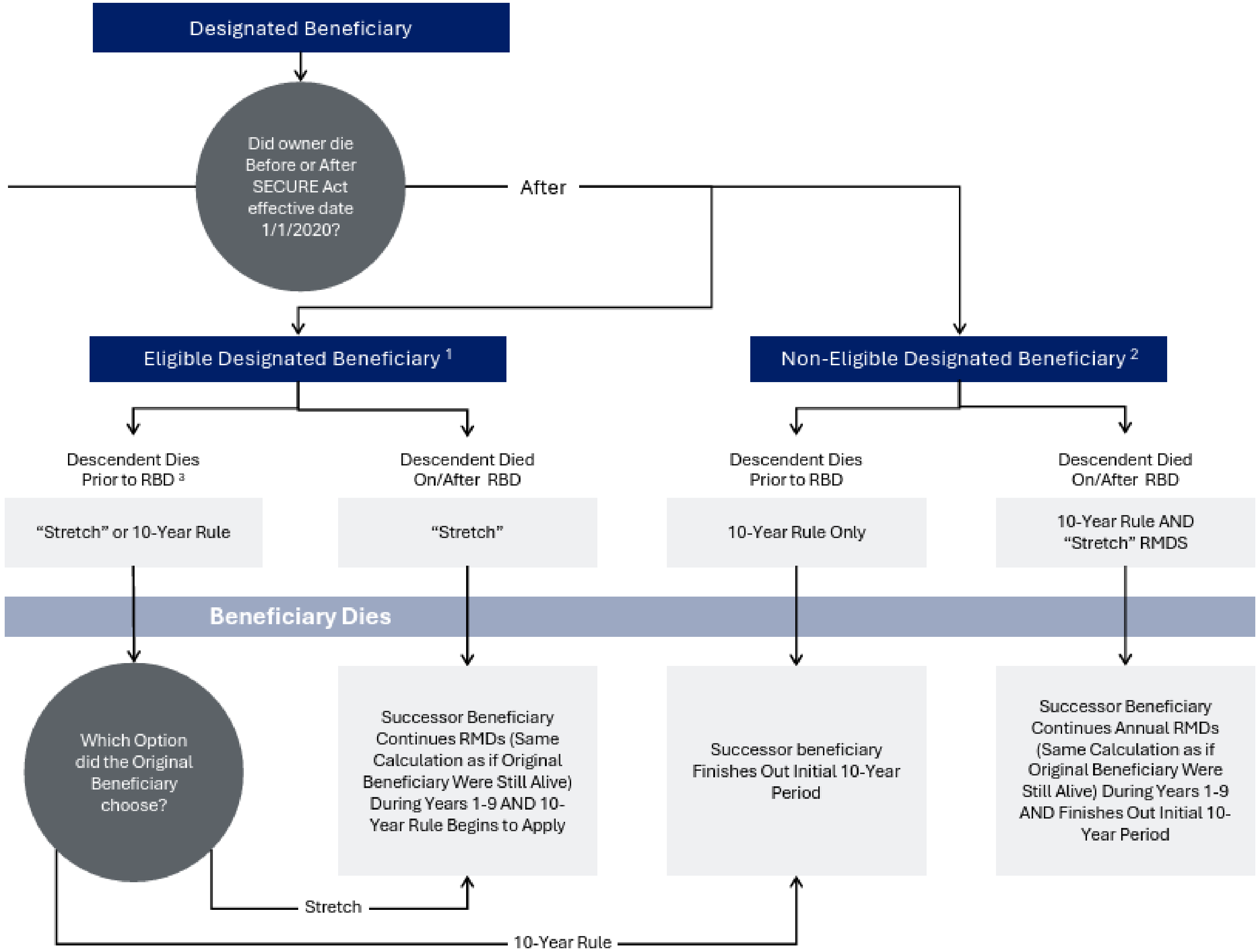

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4. Trust Considerations

Trust Withdrawal Rules

Under SECURE Act, it's important to determine if a Trust's beneficiaries are Eligible Designated Beneficiaries or Non-Eligible Designated Beneficiaries.

SEE-THROUGH TRUST:

A trust named as a beneficiary that is:

- Valid under state law,
- Irrevocable as of death,
- A copy is provided to administrator by 10/31 of year after death, and
- All beneficiaries are identifiable.

CONDUIT TRUST

A trust that specifies that all distributions from the IRA account will, upon receipt by the trustee, be paid directly to or for the benefit of a beneficiary.

ACCUMULATION TRUST

A trust that is not a Conduit Trust.

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Conduit Trusts

Nothing changed with regard to Conduit Trusts

The Designated Beneficiary or Eligible Designated Beneficiary is the individual that is required to receive all account distributions received by Trustee.

All other beneficiaries of the trust are disregarded for purposes of determining RMDs.

CONSIDER CONDUIT TRUST TREATMENT FOR SPOUSAL TRUSTS:

- Recalculate life expectancy under Single Life Table
- Delayed RMD if deceased spouse is younger
- On spouse's death, beneficiary takes spouse's life expectancy (with subtraction method) for 10-years

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Accumulation Trusts

Four Step Process to identify the ultimate beneficiaries for withdrawal purposes:

1

Determine potential beneficiaries of the trust, considering excluded beneficiaries

2

Divide potential beneficiaries into current and secondary beneficiaries

3

Determine if secondary beneficiaries can be ignored (4 scenarios)

4

Apply withdrawal rules for applicable denominator(s) and IRA final distribution date

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Accumulation Trusts

Step 1

Identify all potential beneficiaries, but SECURE clarifies that you can eliminate the following beneficiaries:

- Predeceased individuals
- Individuals who don't exist yet
- Possible appointees under a power of appointment unless that power is exercised (not just drafted). So, takers in default are counted as beneficiaries.
- Beneficiaries who executed a qualified disclaimer
- Beneficiaries who received full distribution prior to 9/30 after owner's death
- Beneficiaries removed prior to 9/30 after owner's death by reformation or decanting of trust under state law

Accumulation Trusts

Step 2

After all remaining potential beneficiaries are identified, the beneficiaries are divided into current and secondary beneficiaries.

- Current Beneficiaries: a beneficiary who could receive trust distributions that are not contingent upon or delayed until the death of another trust beneficiary.
- Secondary Beneficiary: a beneficiary that could receive trust distributions that were not distributed to the current beneficiary.

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Accumulation Trusts

Step 3

Secondary Beneficiaries are disregarded in the following scenarios

- Current Beneficiary will receive the account outright prior to age 31 or must die prior to age 31. Allows for a life expectancy payout of minor without having a conduit trust.
- The Current Beneficiary is disabled or chronically ill and trust is for his or her exclusive benefit. If secondary beneficiary is a charity, charity can't be a DAF or supporting organization
- A Secondary Beneficiary that will inherit only if another Secondary Beneficiary fails to survive a Current Beneficiary (third-tier beneficiary)
- Conduit Trust

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Accumulation Trusts - Examples

TYPICAL TRUST

Income and principal to my spouse, upon her death, income and principal to my issue, if any; otherwise to charity.

- Owner is survived by spouse and 3 children and 4 grandchildren

CURRENT BENEFICIARY SPOUSE

SECONDARY BENEFICIARY ISSUE

SPRAY TRUST

Income and principal to my spouse and my issue at the trustee's discretion; upon the death of my children distribute to charity.

- Owner survived by spouse and 3 children and 4 grandchildren

CURRENT BENEFICIARY SPOUSE ISSUE

SECONDARY BENEFICIARY CHARITY

Accumulation Trusts - Examples

CONTINGENT TRUST

- Income and principal to my spouse until death or remarriage; then distribute principal to my children and issue then living; otherwise, distribute principal to charity.
  - Owner survived by spouse and 3 children and 4 grandchildren

CURRENT BENEFICIARY SPOUSE ISSUE

SECONDARY BENEFICIARY CHARITY

MINOR TRUST

- Income and principal to my child until age 30 and then distribute the trust to my child; otherwise to charity.
  - Owner survived by the child

CURRENT BENEFICIARY CHILD

SECONDARY BENEFICIARY CHARITY *(disregarded)*

Accumulation Trusts

Step 4

After identifying the current and secondary beneficiaries, the applicable denominator can be determined based on death prior to or after RBD and age of oldest beneficiary:

- **If no designated beneficiary**: the 5-year rule for death prior to RBD or decedent's remaining life expectancy for death after RBD (Ghost life expectancy)
- **All designated beneficiaries**: the 10-year rule would apply.
  - Death prior to RBD would have no RMD for 9 years
  - Death after RBD would have RMDs for 9 years based on oldest beneficiary's life expectancy.
- **All eligible designated beneficiaries**: life expectancy payout based on oldest EDB and final payout is 10 years after oldest EDB's death.
- **Any minor child as beneficiary**: A life expectancy payout but utilizing the oldest beneficiary's life expectancy. Final payout is 10 years after oldest minor child reaches age 21 or dies, whichever comes first.
- **Trust for disabled or chronically ill:** life expectancy payout of oldest disabled beneficiary; final payout is earlier of: 10 years after oldest beneficiary's death or life expectancy.

Accumulation Trusts - Examples

"POT" TRUST FOR MINORS

- Income and principal until youngest child reaches age 25; then distribute to children; if none survive to Aunt Betty.
- Owner survived by 3 children

CURRENT BENEFICIARY **3 CHILDREN**

SECONDARY BENEFICIARY **AUNT BETTE** *(may be disregarded)*

- Oldest child's lifetime for RMDs; unless oldest child will be over age 31 when youngest is age 25. Otherwise, Aunt Bette's life expectancy controls
- Trust terminates 10 years after oldest minor child reaches age 21 or earlier dies.

SPECIAL NEEDS TRUST

- Income and principal to my disabled child for life; upon death of child distribute to equally to charity and issue.
  - Owner survived by 3 children and 4 grandchildren

CURRENT BENEFICIARY **CHILD**

SECONDARY BENEFICIARY **CHARITY** *(disregarded)*

ISSUE *(disregarded)*

Secure Act(s): After the Final Regulations

5. Planning Considerations and Software Application

Planning Considerations under SECURE Act(s)

Liquidation Strategy

The SECURE Act rules for non-eligible designated beneficiaries may change how a client would like to fund retirement expense if there is a desire to preserve taxable funds. Taxes should be an important consideration.

Roth Conversions

Consider Roth Conversions to move Traditional IRA Funds to a Roth IRA. While the Roth IRA may still be subject to the 10-year rule, the withdrawals will be tax free.

Qualified Charitable Distributions

The age to begin making QDCs did not change under the SECURE Acts. At 70 ½ clients can gift up to $108,000 (indexed for inflation each year) to charities out of the IRA directly.

Charitable Gifts

It may make sense in larger IRA situations to distribute and gift the IRA assets. The entire Estate of the Client as well as the Estate Tax Exemption should be taken into account when considering this option.

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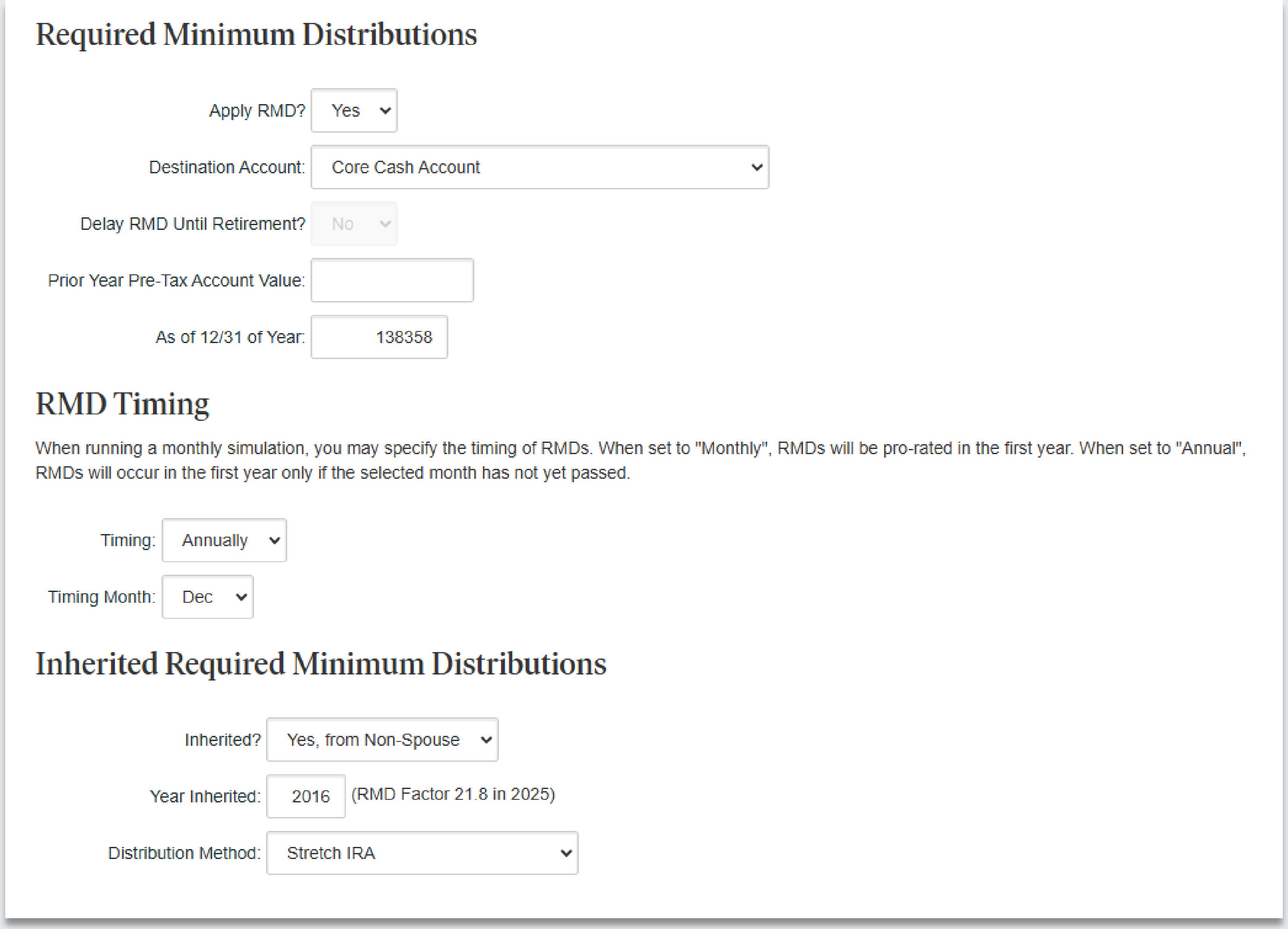
Software Application: eMoney

An update to eMoney will allow you to give the software the IRA/Inherited IRA's year-end balance.



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