

## The New RMD Rules for Inherited Retirement Accounts

*How to determine a beneficiary's RMDs under the Proposed Regulations*

by Natalie B. Choate, Esq.

These two charts summarize the minimum distribution requirements for one individual beneficiary of a decedent **who dies in 2022** according to the proposed Treasury regulations issued in February 2022. The regulations are not final, and so may change. Effective date issues are not covered here. These charts simply outline the required minimum distribution (RMD) rules for various types of individual beneficiaries (and the participant's estate) under the proposed regulations *as if* such regulations were final and effective in 2022. These charts apply only to defined contribution (individual account) plans, not defined benefit plans or annuities. These charts do not cover trusts named as beneficiary, only individuals and the employee's estate.

The new RMD "system" for beneficiaries generally has two parts. First, there is an annual distributions track: What annual distributions are required after the participant's death, if any? Second, there is an "Outer Limit Year" in which 100% of the account becomes the RMD, regardless of what the "annual distributions track" says. To advise a beneficiary you'll need to explain both the annual distributions requirement and the Outer Limit Year requirement. See Prop. Reg. § 1.401(a)(9)-5(e). The post-death payout must be completed in the Outer Limit Year if the account was not previously exhausted by the annual distributions.

To use the charts you need the following information:

1. Did the decedent die **before or after** his required beginning date (RBD)? To determine the RBD, see ¶ 1.4 of *Life and Death Planning for Retirement Benefits* (but change "age 70½" to "age 72"). You can NOT figure out any beneficiary's RMDs without knowing whether the decedent died before or on/after his RBD.
2. What category is the beneficiary?

...an **Eligible Designated Beneficiary** (EDB)? If so which type— participant's surviving spouse, minor child of the participant, disabled or chronically (D/CI) ill individual, or not-more-than-10-years-younger beneficiary?

...a **plain old designated beneficiary** (PODB)? Or,

...a **non-designated beneficiary** (Non-DB), such as the participant's estate?

3. The "beneficiary's life expectancy" (and the decedent's or "ghost" life expectancy) are calculated using the Single Life Table found at Treas. Reg. § 1.401(a)(9)-9(b). The applicable factor ("Applicable Denominator") is divided into the prior year end account balance. For how to calculate the prior year end account balance, see ¶ 1.5.05 of *Life and Death Planning for Retirement Benefits*.

**Chart I: Post-death Required Minimum Distributions  
...if Participant Died BEFORE his/her Required Beginning Date**

<b>Beneficiary</b>	<b>RMD for year of Participant's death</b>	<b>Annual distributions required in succeeding years</b>	<b>Outer Limit Year (100% distribution required in this year)</b>
EDB: Participant's surviving spouse	None	Annual distributions over spouse's life expectancy (Notes 1, 3, 4).	Year that contains the 10 <sup>th</sup> anniversary of EDB's death (if that comes earlier than the final year of the life expectancy payout). (Notes 5, 6)
EDB: Minor child of participant	None	Annual distributions over beneficiary's life expectancy (Notes 2, 3)	Year that contains the 10 <sup>th</sup> anniversary of the earlier of the child's death or the child's 21 <sup>st</sup> birthday. Prop. Reg. § 1.401(a)(9)-5(e)(1), (3), (4).
EDB: Disabled or chronically ill individual; or not more than 10 years younger individual	None	Annual distributions over beneficiary's life expectancy (Notes 2, 3)	Year that contains the 10 <sup>th</sup> anniversary of EDB's death (if that comes earlier than the final year of the life expectancy payout) (Note 5)
PODB	None	None	Year that contains the 10 <sup>th</sup> anniversary of participant's death. Prop. Reg. § 1.401(a)(9)-3(c)(3).
Non-DB (participant's estate)	None	None	Year that contains the 5 <sup>th</sup> anniversary of participant's death. Prop. Reg. § 1.401(a)(9)-3(c)(2).

## Notes to Chart I:

1. The commencement date for RMDs to the surviving spouse (“S/S”) is the later of the year after the year of the employee’s death or “the end of the calendar year in which the employee would have reached age 72” (age 70½ if decedent born before 7/1/1949). Prop. Reg. § 1.401(a)(9)-3(d). RMDs are based on the S/S’s life expectancy recalculated annually. Prop. Reg. § 1.401(a)(9)-5(d)(3)(iv). If the S/S dies “before distributions have commenced” under the preceding rule then the RMD rules (5-year rule, etc.) are applied “as if the S/S were the employee.” To determine who is the S/S’s “beneficiary” in that case, see Prop. Reg. § 1.401(a)(9)-4(d). The date “distributions have commenced” to S/S is the end of either (1) the year after the year in which the employee died or (2) the year in which the employee would have reached age 72 (or 70½ if applicable), whichever is later. Prop. Reg. § 1.401(a)(9)-3(e)(1), (3). Any distribution to the S/S in that later-of calendar year would be a nonrollable RMD until the RMD for such year (based on S/S as beneficiary) was satisfied. Prop. Regs. § 1.402(c)-2(j)(3)(i)(A), § 1.401(a)(9)-5(a)(2)(ii). If the S/S dies *after* RMDs have commenced (i.e., on or after the last day of the calendar year in which distributions to him/her were required to begin), RMDs to the successor beneficiary (based on S/S’s life expectancy) continue until the year that contains 10<sup>th</sup> anniversary of S/S’s death (100% distribution required) or until the life expectancy payout exhausts the account if earlier. According to the Preamble to the Proposed Regs, recalculation of S/S’s life expectancy ends with year of S/S’s death, and thereafter RMDs to the successor beneficiary continue based on that year-of-death remaining life expectancy minus one each year. I have not found that rule in the Proposed Regulations, only in the Preamble. Compare Prop. Regs. § 1.401(a)(9)-5(d)(3)(iv), (3)(ii).
2. Life-expectancy RMDs to non-spouse EDB commence year after year of employee’s death. Prop. Regs. § 1.401(a)(9)-3(c)(4), § 1.401(a)(9)-5(a)(2)(iii). [Why does this rule appear twice?] Life expectancy of a non-spouse EDB is not recalculated annually. Prop. Reg. § 1.401(a)(9)-5(d)(3)(iii).
3. The retirement plan may require that the 10-year rule “will apply” to some or all EDBs in place of the life expectancy payout; OR allow the EDB to elect 10-year rule instead of life expectancy payout; OR allow the employee to elect that 10-year rule shall apply to the EDB instead of life expectancy payout. Prop. Reg. § 1.401(a)(9)-3(c)(5)(ii), (iii). If 10-year rule applies under these provisions, see “PODB” instead of S/S or EDB. Possible use of 10-year rule instead of life expectancy payout applies *only* if employee died before RBD.
4. The S/S also has the option to “roll over” distributions from the decedent’s account into the S/S’s own retirement account. Prop. Reg. § 1.402(c)-2(j)(1). Following such rollover, the S/S’s RMDs will be calculated using the Uniform Lifetime Table, not the Single Life Table applicable to beneficiaries. This rollover option does not apply to any distribution to the S/S that is a Required Minimum Distribution. Prop. Reg. § 1.402(c)-2(j)(3).

5. Prop. Reg. § 1.401(a)(9)-5(e)(1), (3).
6. Unlike other EDBs, the S/S cannot outlive her own life expectancy—unless she lives to be age 120. Because the S/S’s life expectancy is recalculated annually, the S/S (while living) will not be required to withdraw 100% of the inherited account until he/she reaches age 120. If the S/S dies earlier than that age, his/her life expectancy is “frozen” and thereafter reduced by one each year. [That’s according to the *Preamble* to the Proposed Regulations; I could not find this rule in the Proposed Regulations. See Prop. Reg. § 1.401(a)(9)-5(d)(3)(iv); compare (3)(ii).] Thus if S/S dies after approximately age 81 (when life expectancy drops to about 10 years), his/her successor beneficiary (who must continue to withdraw life expectancy RMDs) will be required to withdraw 100% in less than 10 years after S/S’s death.

**Chart II: Post-death Required Minimum Distributions  
...if Employee Died ON OR AFTER his/her Required Beginning Date**

<b>Beneficiary</b>	<b>RMD for year of Employee's death</b>	<b>Annual distributions required in succeeding years</b>	<b>Outer Limit Year (100% distribution required in this year)</b>
EDB: Employee's surviving spouse (S/S)	Yes if not taken by employee (Note 3)	Annual distributions over longer of spouse's life expectancy or decedent's ("ghost") life expectancy (Notes 1, 2, 4).	Earliest of: Year that contains 10 <sup>th</sup> anniversary of S/S's death, final year of S/S's life expectancy; or final year of ghost life expectancy. (Notes 5, 6, 7)
EDB: Minor child of employee	Yes if not taken by employee (Note 3)	Annual distributions over beneficiary's life expectancy (Note 2)	Year that contains the 10 <sup>th</sup> anniversary of the earlier of the EDB's death or the EDB's 21 <sup>st</sup> birthday. (Note 9)
EDB: Disabled, Chronically ill, or not more than 10 years younger individual	Yes if not taken by employee (Note 3)	Annual distributions over longer of EDB's life expectancy or decedent's ("ghost") life expectancy (Note 2).	Earliest of: Year that contains 10 <sup>th</sup> anniversary of EDB's death; final year of EDB's life expectancy; or final year of ghost life expectancy. (Notes 5, 7)
PODB	Yes if not taken by employee (Note 3)	Annual distributions over greater of beneficiary's life expectancy or ghost life expectancy. Prop. Reg. § 1.401(a)(9)-5(d)(1)(ii).	The earlier of: (1) The year that contains the 10 <sup>th</sup> anniversary of the employee's death or (2) the final year of the beneficiary's life expectancy. (Notes 2, 8)
Non-DB (employee's estate)	Yes if not taken by employee (Note 3)	Annual distributions over ghost life expectancy. Prop. Reg. § 1.401(a)(9)-5(d)(1)(iii).	Final year of ghost life expectancy. Prop. Reg. § 1.401(a)(9)-5(d)(1)(iii).

## Notes to Chart II:

1. RMDs to the S/S are based on the longer of S/S's life expectancy or the employee's life expectancy (sometimes called the "ghost life expectancy"). Prop. Reg. § 1.401(a)(9)-5(d)(1)(ii). The S/S's life expectancy is recalculated annually; the employee's is not. Prop. Reg. § 1.401(a)(9)-5(d)(3)(ii), (iv). [What happens if they cross? Not covered here...]
2. Life-expectancy RMDs to a beneficiary continue through the year of the beneficiary's death (if the account was not fully distributed earlier). Prop. Reg. § 1.401(a)(9)-5(d)(1)(i). When are such distributions required to commence? Presumably the year after the year of the employee's death; it appears that the limitation "in the case of an employee who dies before the required beginning date" should be removed from the definition of "First distribution calendar year for beneficiary" in Prop. Reg. § 1.401(a)(9)-5(a)(2)(iii), since the rule obviously applies regardless of whether death was before or after the RBD. Life expectancy of a nonspouse EDB is not recalculated annually. Prop. Reg. § 1.401(a)(9)-5(d)(3)(iii).
3. If the decedent had not taken the full RMD for the calendar year of his death, the beneficiary must withdraw whatever portion the decedent failed to take by December 31 of the year of the employee's death. Prop. Reg. § 1.401(a)(9)-5(c)(1), last two sentences. If the beneficiary misses that deadline, then, "Unless the Commissioner determines otherwise" (???), there is an automatic waiver of the 50% excise tax normally assessed on a missed RMD (§ 4974(a)) if the beneficiary satisfies the year-of-death distribution requirement by taking the distribution "no later than the tax filing deadline (including extensions thereof) for the taxable year of that beneficiary that begins with or within that calendar year." Prop. Reg. § 54.4974-1(g)(3).
4. The S/S also has the option to "roll over" distributions from the decedent's account into the S/S's own retirement account. Prop. Reg. § 1.402(c)-2(j)(1). Following such rollover, the S/S's RMDs will be calculated using the Uniform Lifetime Table, not the Single Life Table applicable to beneficiaries. This rollover option does not apply to any distribution to the S/S that is a Required Minimum Distribution. Prop. Reg. § 1.402(c)-2(j)(3).
5. Prop. Reg. § 1.401(a)(9)-5(e)(1), (3).
6. According to the *Preamble* to the Proposed Regulations, recalculation of S/S's life expectancy ends with year of S/S's death. Thereafter annual RMDs continue based on that year-of-death remaining life expectancy minus one each year, until S/S's life expectancy runs out. I could not find this rule in the Proposed Regulations. See Prop. Reg. § 1.401(a)(9)-5(d)(3)(iv); compare (3)(ii).
7. The "Shorter of" Rule: If the EDB was older than the decedent, then the ghost life expectancy will be longer than the EDB's life expectancy. The Proposed Regulations provide that in cases of death after the RBD, the Outer Limit Year for the EDB's "life expectancy

payout” is the final year of the ghost life expectancy or of the EDB’s life expectancy *whichever comes first*. Prop. Reg. § 1.401(a)(9)-5(e)(5). As the Proposed Regulation puts it, the Outer Limit Year will be the year the beneficiary’s remaining life expectancy becomes “less than or equal to one,” if that happens before the final year of a payout based on the ghost life expectancy (and before the 10-year limit). This “shorter of” rule applies even if, prior to such year, the EDB was enjoying the longer payout period of the ghost life expectancy under the “longer of” rule! The shorter-of rule applies only to EDBs who were older than the employee, not to PODBs or Non-DBs. The shorter-of deadline is presumably complicated to calculate if the EDB is/was the S/S, because the surviving spouse’s life expectancy is recalculated annually until the year of his/her death so it’s a moving target. The “shorter of” rule wins the first annual award for Nastiest Most Mean-Spirited Proposed Regulation of the Year. It “attacks” only elderly surviving spouses, disabled or chronically ill, and other individual beneficiaries who by definition are older than age 73 and therefore have at most a 15-year payout to look forward to (though a surviving spouse’s life expectancy payout could stretch to age 120, due to recalculation). Is it really necessary to force the 85-year old sibling of the deceased 80-year old employee to withdraw the entire balance within 8 (approximately) years rather than (approximately) 11 years?

8. The rule for PODBs in case of employee’s death after the RBD is the 10-year rule limit, unless the payout ends earlier under the “longer of” (PODB’s or employee’s life expectancy) rule. I believe the longer-of rule could not apply to an individual POB: If the POB had a same-as-or-shorter life expectancy than the employee, the POB would be an EDB! (“Not more than 10 years younger...”). So for practical purposes, in case of employee’s death after the RBD leaving benefits to one individual POB, the beneficiary must take the balance of decedent’s year of death RMD (if not taken by the decedent), then take annual RMDs based on the *beneficiary’s* life expectancy for the next nine years, then withdraw 100% of the account in year 10. The “longer of” rule might somehow come into play for a POB if the beneficiary is a see-through accumulation trust with multiple designated beneficiaries; this Chart does not cover trusts or multiple beneficiary situations.
9. The “shorter of” rule normally applicable to an EDB under Prop. Reg. § 401(a)(9)-5(e)(5) (see Note 7) cannot come into play for benefits left to a minor-child EDB because (I’m pretty sure) the decedent cannot have been younger than his/her own child.