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THE AMERICAN COLLEGE OF TRUST AND ESTATE COUNSEL

2022

TAX TABLES

Including the SECURE Act Plan Distribution Rules

COMPILING EDITORS

SUSAN T. BART

KAREN S. GERSTNER

901 15th Street, NW, Suite 525
Washington, D.C. 20005

actec.org/tax-tables
publications@actec.org

SELECTED FEDERAL[1] TAX RETURN DUE DATES

April 18, 2022	**First estimated installment, calendar year 1041s, and 709s.**
April 18, 2022[2]	**1040s, and taxes on 1040s for 2021.**
May 16, 2022	**Form 990.**
June 15, 2022	**Second estimated installment.**
September 15, 2022	**Third estimated installment.**
October 3, 2022	**2021 1041s with 5½ month extension.**
October 17, 2022	**2021 1040s with 6-month extension.**
January 18, 2023	**Fourth estimated installment.**

[1] State tax deadline extensions may vary.
[2] The deadline is April 19, 2022, for taxpayers in Maine and Massachusetts.

THE AMERICAN COLLEGE OF
TRUST AND ESTATE COUNSEL

TAX TABLES
Revised through April 15, 2022

Although care was taken to make these Tax Tables an accurate, handy reference, they should not be relied upon as the final basis for action. Neither the College nor the individual editors and advisors (who have volunteered their time and experience in the preparation of the tables) assume any responsibility for the accuracy of the information contained in the tables.

Compiling Editors
Susan T. Bart
Karen S. Gerstner

The American College of Trust and Estate Counsel
901 15th Street, NW, Suite 525
Washington, D.C. 20005
Phone: (202) 684-8460 • Fax: (202) 684-8459
Email: publications@actec.org • Web Page: actec.org/tax-tables

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[or surviving spouse as defined in IRC 2(a)]
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Taxable Income Bracket Amount	Tax on Bracket Amount	Tax Rate on Excess Over Bracket Amount
Less than $20,550	-0-	10%
$20,550	$2,055	12%
$83,550	$9,615	22%
$178,150	$30,427	24%
$340,100	$69,295	32%
$431,900	$98,671	35%
$647,850	$174,253.50	37%

"Taxable income" means:

1. Adjusted gross income (AGI) as defined in IRC 62,
2. Less (a) itemized deductions* or (b) if greater, the standard deduction of $25,900** increased by $1,400 for each taxpayer who is blind or who is over age 65 (or, if both, by $2,800), and
3. Any deduction for qualified business income (QBI).

A portion of Social Security benefits ("SSB") may be included in gross income if MAGI-PLUS* exceeds $32,000** [IRC 86]. If MAGI-PLUS:

a. Is $44,000 or less, the amount of SSB included is the lesser of (i) 50% of SSB or (ii) 50% of the excess of MAGI-PLUS over $32,000,

   or

b. Is over $44,000, the amount of SSB included is the lesser of (i) 85% of SSB or (ii) the sum of $6,000 (or the amount determined under a above, if less) plus 85% of the excess of MAGI-PLUS over $44,000.

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* Itemized deductions are no longer reduced by a percentage of AGI in excess of a certain amount. "Miscellaneous deductions" are not allowed. The deduction for state and local taxes is limited to $10,000.

** If either taxpayer is allowable as a dependent of another, the standard deduction must not exceed the greater of (a) $1,150 or (b) $400, plus earned income [IRC 63(c)(5)].

*** MAGI-PLUS is AGI (without any SSB) plus IRC 135 excludable tuition bond income; IRC 137 excludable employee adoption assistance benefit; IRC 221 interest deduction on education loans, IRC 222 qualified tuition; IRC 911, 931, and 933 excludable foreign earned income; tax exempt interest, and 50% of SSB.

For federal tax purposes the terms "spouse," "husband and wife," "husband" and "wife" include an individual married to a person of the same sex.

Head of Household
[as defined in IRC 2(b) and, if married living apart with dependent child, see IRC 7703(b)]

Tax Years Beginning in 2022

Taxable Income Bracket Amount	Tax on Bracket Amount	Tax Rate on Excess Over Bracket Amount
Less than $14,650	-0-	10%
$14,650	$1,465	12%
$55,900	$6,415	22%
$89,050	$13,708	24%
$170,050	$33,148	32%
$215,950	$47,836	35%
$539,900	$161,218.50	37%

"Taxable income" means:

1. Adjusted gross income ("AGI") as defined in IRC 62,
2. Less (a) itemized deductions* or (b) if greater, the standard deduction of $19,400** increased by $1,750 if taxpayer is blind or over age 65 (or, if both, by $3,500 [IRC 63(f)]), and
3. Any deduction for qualified business income (QBI).

A portion of Social Security benefits ("SSB") may be included in gross income if MAGI-PLUS* exceeds $25,000 [IRC 86].** If MAGI-PLUS:

a. Is $34,000 or less, the amount of SSB included is the lesser of (i) 50% of SSB or (ii) 50% of the excess of MAGI-PLUS over $25,000,
   or
b. Is over $34,000, the amount of SSB included is the lesser of (i) 85% of SSB or (ii) the sum of $4,500 (or the amount determined under a above, if less) plus 85% of the excess of MAGI-PLUS over $34,000.

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* Itemized deductions are no longer reduced by a percentage of AGI in excess of a certain amount. "Miscellaneous deductions" are not allowed. The deduction for state and local taxes is limited to $10,000.

** If either taxpayer is allowable as a dependent of another, the standard deduction must not exceed the greater of (a) $1,150 or (b) $400, plus earned income [IRC 63(c)(5)].

*** MAGI-PLUS is AGI (without any SSB) plus IRC 135 excludable tuition bond income; IRC 137 excludable employee adoption assistance benefit; IRC 221 interest deduction on education loans; IRC 222 qualified tuition; IRC 911, 931, and 933 excludable foreign earned income; tax exempt interest; and 50% of SSB.

Single Individual

Tax Years Beginning in 2022

Taxable Income Bracket Amount	Tax on Bracket Amount	Tax Rate on Excess Over Bracket Amount
Less than $10,275	-0-	10%
$10,275	$1,027.50	12%
$41,775	$4,807.50	22%
$89,075	$15,213.50	24%
$170,050	$34,647.50	32%
$215,950	$49,335.50	35%
$539,900	$162,718	37%

"Taxable income" means:

1. Adjusted gross income (AGI) as defined in IRC 62,
2. Less (a) itemized deductions* or (b) if greater, the standard deduction of $12,950 ** increased by $1,750 if taxpayer is blind or over age 65 (or, if both, by $3,500), and
3. Any deduction for qualified business income (QBI).

A portion of Social Security benefits (SSB) may be included in gross income if MAGI-PLUS* exceeds $25,000** [IRC 86]. If MAGI-PLUS:

a. Is $34,000 or less, the amount of SSB included is the lesser of (i) 50% of SSB or (ii) 50% of the excess of MAGI-PLUS over $25,000,
or
b. Is over $34,000, the amount of SSB included is the lesser of (i) 85% of SSB or (ii) the sum of $4,500 (or the amount determined under a above, if less) plus 85% of the excess of MAGI-PLUS over $34,000.

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* Itemized deductions are no longer reduced by a percentage of AGI in excess of a certain amount. "Miscellaneous deductions" are not allowed. The deduction for state and local taxes is limited to $10,000.

** If taxpayer is allowable as a dependent of another, the standard deduction must not exceed the greater of (a) $1,150 or (b) $400, plus earned income [IRC 63(c)(5)].

*** MAGI-PLUS is AGI (without any SSB) plus IRC 135 excludable tuition bond income; IRC 137 excludable employee adoption assistance benefit; IRC 221 interest deduction on education loans, IRC 222 qualified tuition; IRC 911, 931, and 933 excludable foreign earned income; tax exempt interest; and 50% of SSB.

KIDDIE TAX—Unearned income of a child under age 18, and in some cases age 18 to 23, is taxed for 2022 at the parent's marginal rate [IRC 1(g)]. For 2022, the first $1,150 of a child's unearned income qualifies for the standard deduction, the next $1,150 is taxed at the child's income tax rate, and unearned income above $2,300 is taxed at the parent's marginal income tax rate.

Married Filing a Separate Return

Tax Years Beginning in 2022

Taxable Income Bracket Amount	Tax on Bracket Amount	Tax Rate on Excess Over Bracket Amount
Less than $10,275	-0-	10%
$10,275	$1,027.50	12%
$41,775	$4,807.50	22%
$89,075	$15,213.50	24%
$170,050	$34,647.50	32%
$215,950	$49,335.50	35%
$323,925	$87,126.75	37%

"Taxable income" means:

1. Adjusted gross income (AGI) as defined in IRC 62,
2. Less (a) itemized deductions* or (b) if greater, the standard deduction of $12,950** increased by $1,400 if taxpayer is blind or over age 65 (or, if both, by $2,800), but if either spouse itemizes deductions, the other has a zero standard deduction [IRC 63(c)(6)], and
3. Any deduction for qualified business income (QBI).

A portion of Social Security benefits ("SSB") may be included in gross income [IRC 86]. The amount included is the lesser of:

a. 85% of SSB or
b. 85% of MAGI-PLUS.***

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* Itemized deductions are no longer reduced by a percentage of AGI in excess of a certain amount. "Miscellaneous deductions" are not allowed. The deduction for state and local taxes is limited to $5,000.

** If the taxpayer is allowable as a dependent of another, the standard deduction must not exceed the greater of $1,150 or the sum of earned income plus $400 [IRC 63(c)(5)].

*** MAGI-PLUS is AGI (without any SSB) plus IRC 135 excludable tuition bond income; IRC 137 excludable employee adoption assistance benefit; IRC 221, interest deduction on education loans; IRC 222 qualified tuition; IRC 911, 931, and 933 excludable foreign earned income; tax exempt interest; and 50% of SSB.

NOTE—For any taxable year in which one spouse dies, the surviving spouse must file either a joint return or a married filing separately return [IRC 6013(d)(1)(B)].

Trusts and Estates

- No attempt is made here to describe the tax rules applicable to special kinds of irrevocable trusts (such as **charitable trusts, QSFs, ESBTs, QSSTs, bankruptcy estates, legal life estates, qualified plan trusts**, and so on).
- To the extent that any portion of an irrevocable trust is treated as a grantor trust under IRC 671, the grantor reports the income, deductions, and credits attributable to that portion as though the grantor owned that portion.

Tax Years Beginning in 2021

Taxable Income Bracket Amount	Tax on Bracket Amount	Tax Rate on Excess Over Bracket Amount
Less than $2,650	-0-	10%
$2,650	$265	24%
$9,550	$1,921	35%
$13,050	$3,146	37%

Tax Years Beginning in 2022

Taxable Income Bracket Amount	Tax on Bracket Amount	Tax Rate on Excess Over Bracket Amount
Less than $2,750	-0-	10%
$2,750	$275	24%
$9,850	$1,979	35%
$13,450	$3,239	37%

"Taxable income" means:

1. Gross income as defined in IRC 61,
2. Less itemized deductions (other than miscellaneous itemized deductions),
3. Less other deductions "which would not have been incurred if the property were not held in such trust or estate,"
4. Less distribution deduction under IRC 651 or 661, and
5. Less a personal exemption under IRC 642(b) of:

   $600 for an estate,

   $300 for a trust that is required to distribute all of its income currently, or

   $100 for all other trusts.

A. Quarterly estimated tax payments are required for all trust taxable years, and for all estate taxable years ending after the second anniversary of death. For this purpose, a trust:
   1. All of which was treated as owned by a decedent and
   2. To which the residue of the decedent's estate will pass by (or, if there is no will, which is the trust primarily responsible for paying debts, taxes, and expenses) is treated like an estate [IRC 6654(l)].

B. Trust tax years, except for wholly charitable trusts, must close on December 31 [IRC 645].

C. The "65 day" and "separate share" rules under IRC 663 (b) and (c) apply to both "complex" trusts under IRC 661 and 662 and estates.

D. Losses on transactions between an estate and its beneficiaries or trusts and their beneficiaries are disallowed but losses that result from an estate's satisfaction of a pecuniary bequest are not disallowed [IRC 267(b)(13)].

E. Certain revocable trusts are treated as part of an estate for income tax purposes,
   1. If a trustee of a decedent's revocable trust and the decedent's executor, if any, irrevocably elect such treatment on a statement attached to the estate's timely filed (including extensions) first year income tax return, and
   2. If the decedent's revocable trust was a "qualified revocable trust"—that is, it was treated as owned by the decedent under IRC 676 by reason of the decedent's power to revoke such trust [without regard to IRC 672(e)], then such trust will be taxed as part of the estate (subject to estate, rather than trust, income tax rules) for tax years of the estate ending before the "applicable date"—which is:
      a. The second anniversary of the decedent's death or
      b. If an estate tax return is required to be filed, the date which is the 6-month anniversary of the final determination of estate tax. A qualified revocable trust can be a portion of a revocable trust (for example, one spouse's portion of a married couple's joint revocable trust).

Capital Gains Rates and Rules

For Individuals

A. Maximum capital gains rates.

Capital assets held for more than one year are taxed at long term capital gains rates. Short term gains (on assets held one year or less) are included in ordinary income. Prior to 2018, noncorporate taxpayers paid tax on net capital gains at a tax rate of (a) 20% if the gain would be taxed at the 39.6% rate if it were ordinary income; (b) 15% if the gain would be taxed at the 25%, 28%, 33%, or 35% rate if it were ordinary income; and (c) 0% if the gain would be taxed at a 10% or 15% rate if it were ordinary income. However, for 2022, long-term capital gains are taxed at their own brackets as follows:

	Single	**Joint or Surviving Spouse**	**Head of Household**	**Married Filing Separately**
0% tax bracket	$0-41,675[3]	$0-83,350	$0-55,800	$41,675
15% tax bracket	$41,675-459,750[4]	$83,350-517,200	$55,800-488,500	$41,675-258,600
20% tax bracket	over $459,750	over $517,200	over $488,500	over $258,600

Special rates apply to capital gain on unrecaptured section 1250 gain (a maximum rate of 25%) and capital gain on collectibles (a maximum rate of 28%). The benefit of these maximum rate provisions does not apply to the extent net capital gain is elected to be included in investment income for purposes of computing deductible investment interest expense under IRC 163(d).

In addition, the 3.8% net investment income tax includes net gain included in gross income from the disposition of property other than certain property held in a trade or business. In the case of an individual, the 3.8% tax is imposed on the lesser of net investment income or the excess of modified adjusted gross income over the threshold amount. The threshold amount is $250,000 in the case of a joint return or surviving spouse, $125,000 in the case of a married individual filing a separate return, and $200,000 in any other case.

[3] $2,800 for an estate or trust.
[4] $13,700 for an estate or trust.

B. Net capital losses.

Net capital losses are deductible against ordinary income up to $3,000 ($1,500 for married filing separately) per year [IRC 1211(b)]. For carryover purposes, under IRC 1212(b)(2), such capital loss ("CL") deduction "uses up" net short-term capital losses ("STCL") first, and is the lesser of:

1. Such CL deduction [that is, such $3,000 (or $1,500) amount or the lesser amount of net CL] or
2. Taxable income after adding back (a) said CL deduction and (b) personal exemptions (with any allowable deduction over gross income for such year taken into account as negative taxable income).

The remaining current year net STCL (the excess of STCL over LTCG) and net LTCL (the excess of LTCL over STCG) are carried over to future years (but not beyond death—see Rev. Rul. 74-175).

C. Dividend income.

Dividends are taxed at the same rates as ordinary income, except for qualified dividends which are taxed at capital gains rates. [IRC 1(h)(11)].

Alternative Minimum Tax [IRC 55]

Exemption Amounts

	2022
Single	$75,900
Married filing jointly	$118,100
Married filing separately	$59,050
Trusts and estates	$26,500

Excess Taxable Income Above Which 28% Tax Rate Applies

Married filing separately	$103,050
Joint returns, unmarried, trusts and estates	$206,100

Amounts Used to Determine Phaseout of Exemption

Single	$539,900
Married filing jointly	$1,079,800
Married filing separately	$539,900
Trusts and estates	$88,300

The AMT exemption amounts and the dollar amounts at which the phase-out of the basic AMT exemption amount begins are indexed for inflation. Certain nonrefundable personal credits may offset AMT liability.

Long-Term Care Insurance Premiums Allowed As "Medical Care" [IRC 213(d)(10)]

Attained Age before Close of the Tax Year	2021 Maximum Premium Deduction	2022 Maximum Premium Deduction
40 or less	$450	$450
More than 40, but no more than 50	$850	$850
More than 50, but no more than 60	$1,690	$1,690
More than 60, but no more than 70	$4,510	$4,510
More than 70	$5,640	$5,640

Health Savings Accounts (HSA) Limit on Deductible Contributions [IRC 223]

Self-Only Coverage: For taxable years beginning in 2022, the term "high deductible health plan" as defined in § 220(c)(2)(A) means, for self-only coverage, a health plan that has an annual deductible that is not less than $2,450 and not more than $3,700, and under which the annual out-of-pocket expenses required to be paid (other than for premiums) for covered benefits do not exceed $4,950.

Family Coverage: For taxable years beginning in 2022, the term "high deductible health plan" means, for family coverage, a health plan that has an annual deductible that is not less than $4,950 and not more than $7,400, and under which the annual out-of-pocket expenses required to be paid (other than for premiums) for covered benefits do not exceed $9,050.

Mileage Rates for Deduction Purposes

	2021	2022
Business	$.56	$.585
Charitable	$.14	$.14
Medical/Moving	$.16	$.18

Section 199A

Tax law changes which became effective on January 1, 2018, permit individuals a 20% deduction from qualified business income from a partnership, S corporation, or sole proprietorship. The deduction is limited to the greater of (1) 50% of the W-2 wages with respect to the trade or business, or (2) the sum of 25% of the W-2 wages, plus 2.5% of the unadjusted basis immediately after acquisition of all qualified property (generally, tangible property subject to depreciation under IRC 167). Taxpayers with taxable years beginning in 2022 and taxable income for the year of less than $170,050 ($340,100 for married filing jointly) are not subject to the W-2 wage limitations, and the limitation is phased in for taxpayers with taxable income above those thresholds. Income from specified service businesses is not excluded from qualified business income for taxpayers with taxable income under the same threshold amounts. A full discussion of this complex new section is beyond the scope of this publication.

Corporate Income Tax

1. Corporations are taxed at a flat 21% rate.
2. Corporate net capital gains (whether short-term or long-term) are taxable income taxed at the same rates as corporate ordinary income.
3. Excess corporate capital losses are subject to a 3-year carryback and 5-year carry forward (as short-term capital loss) but may be used only to reduce corporate capital gains [IRC 1212(a)].
4. The NOL deduction for a tax year is equal to the lesser of (1) the aggregate of the NOL carryovers to such year, plus the NOL carry-backs to such year or (2) 80% of taxable income (determined without regard to the deduction) [IRC 172(a)]. Generally, NOLs can no longer be carried back but are allowed to be carried forward indefinitely [IRC 172(b)(1)(A)].

Personal holding company penalty tax—if a corporation is a "personal holding company," it must pay a penalty tax of 20% on its "undistributed personal holding company income" less any "deficiency dividend" under IRC 547 [IRC 541].

Corporate alternative minimum tax (AMT) has been repealed for years beginning after 2017.

SOCIAL SECURITY

General Rules

2022 Social Security and Medicare Taxes

a. An employer pays a 7.65% FICA tax, consisting of:
    1) 6.20% Social Security tax on the first $147,000 of an employee's wages (maximum tax is $9,114 [6.20% of $147,000]), plus
    2) 1.45% Medicare tax on the employee's total wages (no ceiling).
b. An employee pays:
    1) 6.20% Social Security tax on the first $147,000 of wages (maximum tax is $9,114 [6.20% of $147,000]), plus
    2) 1.45% Medicare tax on the first $200,000 of wages ($250,000 for joint returns; $125,000 for married taxpayers filing a separate return), plus
    3) 2.35% Medicare tax (regular 1.45% Medicare tax plus 0.9% additional Medicare tax) on all wages in excess of $200,000 ($250,000 for joint returns; $125,000 for married taxpayers filing a separate return).

Maximum Allowable Retirement "Earnings"

a. If under full retirement age, $1 is deducted from benefits for every $2 earned over earnings limit—$19,560 in 2022.
b. Full retirement age depends on year of birth. For persons born after 1959, full retirement age is 67 years.
c. In the year in which full retirement age is reached, $1 in benefits is deducted for every $3 earned above $51,960, but only earnings before the month in which full retirement age is reached are counted.
d. Beginning with the month of the birthday in which full retirement age is attained, all earnings are ignored.

Social Security Full Retirement Age

Year of Birth	Full Retirement Age	*Age 62 Reduction (in Months)	**Maximum Reduction
1937 and earlier	65	36	20.00%
1938	65 and 2 months	38	20.83%
1939	65 and 4 months	40	21.67%
1940	65 and 6 months	42	22.50%
1941	65 and 8 months	44	23.33%
1942	65 and 10 months	46	24.17%
1943-1954	66	48	25.00%
1955	66 and 2 months	50	25.83%
1956	66 and 4 months	52	26.67%
1957	66 and 6 months	54	27.50%
1958	66 and 8 months	56	28.33%
1959	66 and 10 months	58	29.17%
1960 and later	67	60	30.00%

Social Security Delayed Retirement Credits

Social Security benefits are increased if retirement is delayed beyond full retirement age. Delayed retirement credits max out at age 70. If retirement is delayed, Medicare is still available at age 65.

Year of Birth	Yearly Rate of Increase	Monthly Rate of Increase
1933-1934	5.5%	11/24 of 1%
1935-1936	6.0%	1/2 of 1%
1937-1938	6.5%	13/24 of 1%
1939-1940	7.0%	7/12 of 1%
1941-1942	7.5%	5/8 of 1%
1943 or later	8.0%	2/3 of 1%

Federal Income Taxation of Social Security Benefits

Determining if Subject to Taxation: Social Security payments, including disability and survivor benefits, are partially subject to taxation if modified adjusted gross income (MAGI), plus one-half of such benefits, exceed the "Base Amount" of $32,000 (if married filing jointly), $25,000 (for most other individuals), and zero (for married individuals filing separately but not living apart for the entire year). MAGI is AGI for regular tax purposes, with a number of possible adjustments, plus exempt interest [IRC 86].

If Taxable, Amount of Benefits Subject to Taxation: If subject to taxation, the amount of such benefits which are taxable will generally be the lesser of: (A) 50% of such Social Security payments or (B) one-half of the amount by which MAGI exceeds the Base Amount. However, if MAGI and one-half of such benefits exceed the Adjusted Base Amount of $44,000 (if married filing jointly), $34,000 (for most other individuals) or zero (for married individuals filing separately but not living apart for the entire year), then a complex formula can subject up to 85% of such Social Security payments to taxation [IRC 86].

ESTATE AND GIFT TAX

Tax Exclusion, Credits, and Exemption Amounts

1998-2022 Transfers

Year	Estate Tax Applicable Exclusion Amounts*	Applicable Estate Tax** Credit Amounts***	Gift Tax Lifetime Exemption	Starting Tax Rate on Estate (or Gift) above Exclusion Amount
1998	$625,000	$202,050	$625,000	37%
1999	$650,000	$211,300	$650,000	37%
2000	$675,000	$220,550	$675,000	37%
2001	$675,000	$220,550	$675,000	37%
2002	$1,000,000	$345,800	$1,000,000	41%
2003	$1,000,000	$345,800	$1,000,000	41%
2004	$1,500,000	$555,800	$1,000,000	45%
2005	$1,500,000	$555,800	$1,000,000	45%
2006	$2,000,000	$780,800	$1,000,000	46%
2007	$2,000,000	$780,800	$1,000,000	45%
2008	$2,000,000	$780,800	$1,000,000	45%
2009	$3,500,000	$1,455,800	$1,000,000	45%
2010	$5,000,000	$1,730,800	$1,000,000	35%
2011	$5,000,000	$1,730,800	$5,000,000	35%
2012	$5,120,000	$1,772,800	$5,120,000	35%
2013	$5,250,000	$2,045,800	$5,250,000	40%
2014	$5,340,000	$2,081,800	$5,340,000	40%
2015	$5,430,000	$2,117,800	$5,430,000	40%
2016	$5,450,000	$2,125,800	$5,450,000	40%
2017	$5,490,000	$2,141,800	$5,490,000	40%
2018	$11,180,000	$4,417,800	$11,180,000	40%
2019	$11,400,000	$4,505,800	$11,400,000	40%
2020	$11,580,000	$4,577,800	$11,580,000	40%
2021	$11,700,000	$4,625,800	$11,700,000	40%
2022	$12,060,000	$4,769,800	$12,060,000	40%

* The “applicable exclusion amount” is the taxable amount that would produce each year’s credit amount shown above if that taxable amount were subject to tax computed on the unified transfer tax rate table [see IRC 2010(c)]. The applicable exclusion amount is indexed for inflation for years after 2011. The applicable exclusion amount for the surviving spouse of a deceased spouse dying after 12/31/2010 includes the “deceased spousal unused exclusion amount” (“DSUEA”).

** The estate and gift tax exemption amounts were not the same for years 2004-2010, and credit shown only applies to the estate tax.

*** The applicable credit is reduced by 20% of the prior law’s lifetime $30,000 specific gift tax exemption used in the calculation of taxable gifts made after September 8, 1976, and before 1977 [IRC 2010(b)].

Special Estate Reduction Limits

Special Use Valuation—Maximum reduction is $1,230,000 in 2022, up from $1,190,000 in 2021. Amount is adjusted for inflation annually [IRC 2032A].

Qualified Conservation Easement—Maximum exclusion is $500,000 [IRC 2031(c)].

Annual Gift Tax Exclusion IRC 2503(b)

Calendar Years	Amount
1932 through 1938	$5,000
1939 through 1942	$4,000
1943 through 1981	$3,000
1982 through 2001	$10,000
2002 through 2005	$11,000
2006 through 2008	$12,000
2009 through 2012	$13,000
2013 through 2017	$14,000
2018 through 2021	$15,000
2022	$16,000

Former Maximum Credit for State Death Taxes

Taxable Estate	Adjusted Taxable Estate*	Credit on Left Column Bracket Amount	Credit Rate on Excess over Bracket Amount
$100,000	$40,000	-0-	0.8%
$150,000	$90,000	$400	1.6%
$200,000	$140,000	$1,200	2.4%
$300,000	$240,000	$3,600	3.2%
$500,000	$440,000	$10,000	4.0%
$700,000	$640,000	$18,000	4.8%
$900,000	$840,000	$27,600	5.6%
$1,100,000	$1,040,000	$38,800	6.4%
$1,600,000	$1,540,000	$70,800	7.2%
$2,100,000	$2,040,000	$106,800	8.0%
$2,600,000	$2,540,000	$146,800	8.8%
$3,100,000	$3,040,000	$190,800	9.6%
$3,600,000	$3,540,000	$238,800	10.4%
$4,100,000	$4,040,000	$290,800	11.2%
$5,100,000	$5,040,000	$402,800	12.0%
$6,100,000	$6,040,000	$522,800	12.8%
$7,100,000	$7,040,000	$650,800	13.6%
$8,100,000	$8,040,000	$786,800	14.4%
$9,100,000	$9,040,000	$930,800	15.2%
$10,100,000	$10,040,000	$1,082,800	16.0%

* "Adjusted taxable estate" means the taxable estate reduced by $60,000 [IRC 2011(b)].

NOTE: Although not applicable for federal estate tax purposes for decedents dying after 12/31/04, several states still base their state death tax on the credit for state death taxes.

GENERATION-SKIPPING TRANSFER TAX

GST Tax Exemption

1998-2022 Transfers

Year	GST Exemption*	Flat Tax Rate
1998	$1,000,000	55%
1999	$1,010,000	55%
2000	$1,030,000	55%
2001	$1,060,000	55%
2002	$1,100,000	50%
2003	$1,120,000	49%
2004	$1,500,000	48%
2005	$1,500,000	47%
2006	$2,000,000	46%
2007	$2,000,000	45%
2008	$2,000,000	45%
2009	$3,500,000	45%
2010	$5,000,000	0%
2011	$5,000,000	35%
2012	$5,120,000	35%
2013	$5,250,000	40%
2014	$5,340,000	40%
2015	$5,430,000	40%
2016	$5,450,000	40%
2017	$5,490,000	40%
2018	$11,180,000	40%
2019	$11,400,000	40%
2020	$11,580,000	40%
2021	$11,700,000	40%
2022	$12,060,000	40%

*Indexed for inflation for years after 2011.

Generation-Skipping Transfer Tax Rules

The term "**generation-skipping transfer**" (GST) means a taxable distribution, taxable termination, or direct skip, all as defined in IRC 2612.

Effective Dates

The GST tax applies to **any GST made after 10/22/86**, the date of enactment [TRA '86 §1433(b) *et seq*.]. **However—**

1. **Pre-enactment period**—transfers made **after 09/25/85** and before 10/23/86 are to be **treated as though made on 10/23/86.**
2. **Grandfathered trusts**—any trust which was **"irrevocable" on 09/25/85** (other than a general power of appointment or "estate" type marital trust) is "grandfathered"—that is, the GST tax applies to it only to the extent that a taxable distribution or taxable termination involves property added (or deemed added) to the trust after 09/25/85.
3. **Incompetent persons**—any transfer of assets included in the gross estate of a decedent who was mentally incompetent on **10/22/86** and did not regain competence before death is exempt (except assets transferred to the incompetent person after 08/03/90 or from a post-10/21/88 QTIP trust).

Rates, Exemptions, and Definitions

A. **The GST tax rate** is the maximum federal estate tax rate, for example, 40% after 2012. To reflect the extent to which the transferor's GST exemption is allocated to the trust (or transfer), the 40% rate is multiplied by the trust's (or transfer's) **"inclusion ratio"** (described below) to produce the **"applicable rate"** [IRC 2641]. This rate is then applied to the taxable amount of the generation-skipping transfer to determine the GST tax on that transfer [IRC 2602]. If the transfer is a taxable distribution or termination, the taxable amount includes the GST tax itself - like the estate tax, the GST tax is tax inclusive [IRC 2621(b) and 2622]. On the other hand, direct skips, like the gift tax, are tax exclusive [IRC 2623].

B. **The GST exemption** is equal to the estate tax exemption beginning in 2004. The trust's (or transfer's) **inclusion ratio is one minus the "applicable fraction."** The numerator of the applicable fraction is the amount of GST exemption allocated to the trust (or transfer), and the denominator is the value of the property transferred, net of transfer taxes thereon [IRC 2641],

    1. **Allocations of a transferor's GST exemption** are normally made on the transferor's timely filed gift or estate tax return reporting the transfer. However, **unless that return directs otherwise (or an election out is made on a prior return),** unused (that is, not previously allocated) GST exemption is **automatically allocated** (i) to lifetime direct skips; (ii) to "indirect skips" to GST trusts; (iii) after death, to direct skips occurring at decedent's death and then to trusts of which the decedent is the transferor and from which taxable distributions or terminations might occur [IRC 2632(b) and (c)]. GST exemption may be **retroactively allocated** to certain trusts in the case of an unusual order of deaths [IRC 2632(d)].
    2. **"ETIP period"**—with two exceptions [see Treas. Reg. §§26.2632-1(c)(2)(ii)(A) and (B)], GST exemption is not allocable to any transfer as long as the transferred property would be includable (except under IRC 2035) in the transferor's or transferor's spouse's estate if either were to die. The end of such estate tax inclusion period becomes the transfer and valuation date for exemption allocation purposes [IRC 2642(f)].

C. **Annual exclusion gifts** to an individual skip person have a zero inclusion ratio for GST tax purposes. This rule applies to annual exclusion gifts to a skip person trust only if its assets are exclusively for, and will be includable in the gross estate of, the trust beneficiary [IRC 2642(c)].

D. **"Reverse QTIP election"**—the creator of a QTIP trust (or the creator's executor) may elect under IRC 2652(a)(3) to continue to be treated as the transferor of that trust after the creator's spouse's death.

E. In the case of a GST nonexempt trust, subjecting its assets to the gift and/or estate tax of a person (such as the child of the grantor who is that trust's primary beneficiary) will, on distribution (or the child's death), **change the "transferor"** of such assets to that child. This will have the effect of eliminating from GST tax what would otherwise have been a taxable termination on the child's death to the child's children. This is so because the determination as to whether an event is a GST is made by reference to the most recent transfer subject to the estate or gift tax—which establishes the identity of the transferor and thus the identity of the skip and non-skip persons [Treas. Reg. § 26.2611-1].

F. **Tuition and medical expense** direct payments [under IRC 2503(e)] are exempt from the GST tax [IRC 2642(c)(3)]. In addition, transfers from a trust which transfers would be exempt from gift tax under IRC 2503(e) if made by an individual are exempt from GST tax [IRC 2611(b)].

G. Under the **predeceased child exemption**, if an individual who is a descendant of a parent of transferor (or of a transferor's spouse or former spouse) dies before his or her parent, his or her issue will all move up one generation; provided, in the case of an individual who is not a lineal descendant of the transferor, that the transferor has no lineal descendants at the time of the transfer [IRC 2651(e)].

H. **Descendants who survive 90 days or less** will be treated as having predeceased the transferor if either the governing instrument or local law so provides [Treas. Reg. § 26.2651-1(a)(2)(iii)].

TREASURY UNISEX ACTUARIAL TABLES EXAMPLES

These tables incorporate the IRS updated mortality assumptions that became effective on May 1, 2009. Although section 7520 requires the IRS to revise the tables every 10 years, as of the date of publication, the tables have not been revised. IRC 7520 generally requires use of an interest rate equal to 120% of the applicable federal mid-term rate (rounded to the nearest 2/10ths of 1%). However, if a charitable contribution is allowable for any part of the assets transferred, the taxpayer may elect to use the 7520 rate for the month in which the valuation date occurs or for either of the 2 months preceding that month.

These Example Tables Use the 7520 Rate for March 2022 of 2%

Single Life

Present value of an **annuity for life** and also of **life income** and **remainder** interests

Age	Annuity*	Life Estate	Remainder
0	38.3436	.76687	.23313
10	36.2021	.72404	.27596
25	31.768	.63536	.36464
40	26.0634	.52127	.47873
50	21.5904	.43181	.56819
55	16.0626	.38365	.61635
60	16.733	.33466	.66534
65	14.2943	.28589	.71411
70	11.8701	.2374	.7626
75	9.5385	.19077	.80923
80	7.4324	.14865	.85135
85	5.6216	.11243	.88757
90	4.1434	.08287	.91713

Term of Years

Present value of an **annuity for a term of years** and also of **income** and **remainder** interests **for a term of years**

Number of Years	Annuity*	Term Certain	Remainder
5	4.7135	.094269	.905731
10	8.9826	.179652	.820348
15	12.8493	.256985	.743015
20	16.3514	.327029	.672971
30	22.3965	.447929	.552071

*Assumes annual payments at the end of each year. The formula for a remainder after a term of years is $\left(\frac{1}{1+i}\right)^{t}$ where i = 7520 rate and t = exponent for number of years of term. The income interest is 1 minus the remainder interest and the annuity factor is the income factor divided by the interest rate.

Unitrusts*

Value of remainder in charitable remainder unitrust

One life at various payout rates

Age	5%	6%	7%
50	.25943	.20598	.16586
55	.31450	.25768	.21350
60	.37656	.31770	.27037
65	.44454	.38531	.33612
70	.51905	.46163	.41243
75	.59759	.54436	.49743
80	.67438	.62724	.58458
85	.74516	.70529	.66837
90	.80653	.77424	.74375

*Table assumes annual payments with no gap between valuation date and payment date, in which case unitrusts are not affected by interest rates. If there is a gap between valuation date and payment date, or if payments are made more frequently than annually, the payout rate must be adjusted using Table F. But in any event, unlike with annuity valuations, interest rates have a very small effect on unitrust valuations.

Value of remainder in charitable remainder unitrust

Two lives at various payout rates

Age	5%	6%	7%
60/60	.26969	.21020	.16465
65/65	.33285	.27000	.21990
70/70	.40603	.34200	.28895
75/75	.48753	.42509	.37149
80/80	.57262	.51460	.46319
85/85	.65611	.60489	.55823

*Table assumes annual payments with no gap between valuation date and payment date, in which case unitrusts are not affected by interest rates. If there is a gap between valuation date and payment date, or if payments are made more frequently than annually, the payout rate must be adjusted using Table F. But in any event, unlike with annuity valuations, interest rates have a small effect on unitrust valuations.

IRS Mortality Table 2000CM

IRS mortality assumptions under Code section 7520 are based on Mortality Table 2000CM which shows on a unisex basis how many lives are living (lx) at each age between birth (age 0) and age 109. To calculate the probability of survival from one age to another age divide the lx value for the older age by the lx value for the younger age:

Table 2000CM

Age x	l_x	Age x	l_x	Age x	l_x
0	100000	37	96921	74	66882
1	99305	38	96767	75	64561
2	99255	39	96600	76	62091
3	99222	40	96419	77	59476
4	99197	41	96223	78	56721
5	99176	42	96010	79	53833
6	99158	43	95782	80	50819
7	99140	44	95535	81	47694
8	99124	45	95268	82	44475
9	99110	46	94981	83	41181
10	99097	47	94670	84	37837
11	99085	48	94335	85	34471
12	99073	49	93975	86	31114
13	99057	50	93591	87	27799
14	99033	51	93180	88	24564
15	98998	52	92741	89	21443
16	98950	53	92270	90	18472
17	98891	54	91762	91	15685
18	98822	55	91211	92	13111
19	98745	56	90607	93	10773
20	98664	57	89947	94	8690
21	98577	58	89225	95	6871
22	98485	59	88441	96	5315
23	98390	60	87595	97	4016
24	98295	61	86681	98	2959
25	98202	62	85691	99	2122
26	98111	63	84620	100	1477
27	98022	64	83465	101	997
28	97934	65	82224	102	650
29	97844	66	80916	103	410
30	97750	67	79530	104	248
31	97652	68	78054	105	144
32	97549	69	76478	106	81
33	97441	70	74794	107	43
34	97324	71	73001	108	22
35	97199	72	71092	109	11
36	97065	73	69056	110	0

INFLATION-ADJUSTED NUMBERS

Description	**2021**	**2022**
Annual Exclusion Gifts [IRC 2503(b)(2)]	$15,000	$16,000
Non-Citizen Spouse Annual Exclusion [IRC]	$159,000	$164,000
Reportable Gifts Received from Foreign Persons [IRC 6039F]	$16,815	17,339
Decrease in Value of Qualified Real Property in Decedent's Gross Estate [IRC 2032A(a)]	$1,190,000	$1,230,000
Estate Tax Installment Payment Interest 2% Portion [IRC 6166 & 6601(j)]	$1,590,000	$1,640,000

NOTE—The first two items go up in $1,000 increments and the last two in $10,000 increments. The third item goes up in actual dollar-amount increments.

LIFE EXPECTANCY TABLES

Examples

Age	**Male**[1]	**Female**[1]	**Unisex**[2]	**Age**	**Male**[1]	**Female**[1]	**Unisex**[2]
0	76.3	81.2	N/A	60	21.7	24.7	24.2
10	66.9	71.7	71.7	65	18.0	20.6	20.0
20	57.2	61.8	61.9	70	14.5	16.6	16.0
30	47.9	52.1	52.2	75	11.2	13.0	12.5
40	38.7	42.6	42.5	80	8.4	9.8	9.5
50	29.8	33.4	33.1	85	6.0	7.0	6.9
55	25.6	28.9	28.6	90	4.1	4.9	5.0

1. 2015 National Center for Health Statistics (male and female rates) not used for taxes.
2. IRC 72 and Treas. Reg. § 1.72-9, Table V (unisex rates used to determine gross income from annuities).

QUALIFIED PLANS

Retirement Plan Contribution Limits

Traditional IRA [IRC 408]	**2021**	**2022**
*Maximum Contribution	$6,000	$6,000
Catch-Up Contribution (Age 50 or more)	$1,000	$1,000
*Phaseout of Deduction Begins at:		
Modified AGI, Married-Joint Returns	$105,000	$109,000
Modified AGI, Single Returns	$66,000	$68,000
*Deduction is Eliminated After:		
Modified AGI, Married-Joint Returns	$125,000	$129,000
Modified AGI, Single Returns	$76,000	$78,000

*IRA contribution cannot exceed earned income. Phaseout of deduction applies only to taxpayers who actively participate in an employer-sponsored retirement plan.

Roth IRA [IRC 408A]	**2021**	**2022**
*Maximum Contribution	$6,000	$6,000
Catch-Up Contribution (Age 50 or more)	$1,000	$1,000
*Phaseout of Allowed Contribution Begins at:		
Modified AGI, Married-Joint Returns	$198,000	$204,000
Modified AGI, Single Returns	$125,000	$129,000
*Contribution is Eliminated After:		
Modified AGI, Married-Joint Returns	$208,000	$214,000
Modified AGI, Single Returns	$140,000	$144,000

*IRA contribution cannot exceed earned income. No contributions are tax deductible.

Simplified Employee Pension IRA (SEP-IRA) [IRC 408(k)]	**2021**	**2022**
Employer's Maximum Contribution	$58,000	$61,000
Simple IRA [IRC 408(p)]		
Employee's Maximum Contribution	$13,500	$14,000
Employee Catch-Up Contribution (Age 50 or more)	$3,000	$3,000
IRC 403(b), 401(k) and Roth 401(k) Plans		
Keogh Profit-Sharing Plan Contribution Limit	$58,000	$61,000
IRC 403(b) and 401(k) Plans		
Elective Deferral Limits	$19,500	$20,500
Catch-Up Contributions (Non-Simple Only)	$6,500	$6,500
IRC 415(c) Limit on All Contributions to a Plan	$58,000	$61,000
Maximum Benefit for Defined Benefit Plan	$230,000	$245,000
IRC 401(a)(17) Annual Compensation Limit	$290,000	$305,000

Various Rules Relating to Distributions from Qualified Retirement Plans and IRAs

SPECIAL ALERT: PROPOSED REGULATIONS RECENTLY ISSUED ADDRESSING THE MINIMUM DISTRIBUTION RULES AS A RESULT OF THE SECURE ACT

The SECURE Act—Setting Every Community Up for Retirement Enhancement Act of 2019—was signed into law on December 20, 2019. The provisions in the SECURE Act affecting qualified plans and IRAs (sometimes jointly referred to as "retirement plans") applied almost immediately "to plan years beginning after December 31, 2019." *See* Section 401(b) of the SECURE Act.

The SECURE Act contains two primary effective date rules (as well as other effective date provisions relating to specific situations). In general, the SECURE Act applies in the case of qualified plan participants and IRA owners (sometimes jointly referred to as "participants") who die after December 31, 2019. In addition, the SECURE Act applies to successor beneficiaries in the case of participants who died before January 1, 2020, having named a designed beneficiary ("DB") who is taking distributions using a life expectancy method, where the DB dies after December 31, 2019. Other effective date rules in the Act apply to collectively bargained plans and governmental plans.

Although the SECURE Act contained some provisions applicable to living participants, including a change in the age component of the participant's Required Beginning Date ("RBD") to 72, three of the most significant changes made by the SECURE Act are (i) the creation of a separate category of "designated beneficiaries" referred to as "eligible designated beneficiaries" ("EDBs"), (ii) the imposition of a new "10 year rule" in the case of beneficiaries of the participant's retirement plan who are DBs but not EDBs, and (iii) the allowance of a new type of trust for disabled and chronically ill beneficiaries (two categories of EDBs) called an "Applicable Multi-Beneficiary Trust."

Based on work done by ACTEC's SECURE Act Guidance Task Force, ACTEC submitted two letters to Treasury, one dated July 14, 2020, and the other dated July 29, 2020, making comments and recommendations regarding numerous provisions in the SECURE Act and requesting the issuance of regulations to clarify certain provisions in the Act. In the meantime, beneficiaries and their advisors have been making certain assumptions regarding the interpretation of various provisions in the SECURE Act, including the application of the new 10 year rule. Some of those assumptions have turned out to be "different" from the Treasury Department's interpretation of the SECURE Act.

On February 23, 2022, the Treasury Department issued proposed regulations ("proposed regulations") addressing the minimum required distribution rules (the "MRD Rules") as a result of the SECURE Act. The proposed regulations and the preamble total 275 pages. ACTEC intends to provide Treasury with comments to the proposed regulations. There are too many provisions in the proposed regulations to cover in this summary. In addition, at this time, the proposed regulations are merely proposed regulations and not final regulations. Therefore, only *some* of the proposed regulations will be discussed in this summary.

Probably the most surprising provisions in the proposed regulations are the provisions explaining the 10 year rule that applies to DBs, to successor beneficiaries of EDBs, and to the participant's minor child once that child reaches the age of majority. *If the participant dies before RBD* and the participant's beneficiary is a DB, so that the 10 year rule applies, that 10 year rule is applied like the 5 year rule but with the ultimate distribution date being December 31 of the year that contains the tenth anniversary of the participant's death. In that case, no distributions are required prior to the ultimate distribution date. On the other hand, *if the participant dies on or after RBD* (hereafter simply referred to as "after RBD") and the participant's beneficiary is a DB, so that the 10 year rule applies, that DB must take RMDs after the participant's death during distribution years 1 through 9 of the period of the 10 year rule and then take full distribution of the balance by December 31 of the year that contains the tenth anniversary of the participant's death. In other words, in the case of the death of the participant *after* RBD with a beneficiary who is a DB, that version of the 10 year rule retains

RMDs as under prior law (i.e., maintains the "at least as rapidly rule"), but with a cessation of RMDs when year 10 is reached, the year requiring distribution of the entire remaining balance by year end. In addition, if the beneficiary of the participant's retirement plan is the participant's minor child (one type of EDB), RMDs must be distributed to (or for the benefit) of the minor child, starting the year after the participant's death. When the child reaches age 21, which is the age of majority per the proposed regulations, the child becomes a DB and is subject to the 10 year rule. Thus, assuming the child does not die before reaching age 31, the full remaining balance would need to be distributed by the time the child reaches age 31 (i.e., ten years after reaching the age of majority). Further, if an EDB who is taking RMDs on a life expectancy basis dies before the entire amount has been distributed, the beneficiary of the EDB will continue taking RMDs in the same manner as under prior law, but with a full distribution of the entire remaining amount by December 31 of the year that contains the tenth anniversary of the EDB's death.

Except in the case where the participant dies before RBD, the interpretation of the 10 year rule in the proposed regulations is not what was expected by most professionals who have been advising clients with respect to distributions from retirement plans once the SECURE Act became effective. What that means is that, if these provisions in the proposed regulations become final, certain beneficiaries who should have taken an RMD during calendar year 2021 (because the participant died after RBD and after the SECURE Act became effective) but did not do so because they thought the new 10 year rule would be applied exactly like the old 5 year rule have failed to take their RMD for 2021. Failure to take the full amount of an RMD (or other required distribution) incurs a 50% penalty under current law. It should be possible for a taxpayer in that particular situation to obtain a waiver of the penalty due to "reasonable cause" (i.e., a good faith interpretation of the 10 year rule).

Federal Spousal Rights in Qualified Retirement Plans

If the participant participates in a defined benefit plan, the participant's surviving spouse is entitled to a qualified preretirement survivor annuity ("QPSA") or qualified joint and survivor annuity ("QJSA"), depending on whether the participant dies before or after the "annuity starting date" (that is, the first day of the first period for which an amount is payable as an annuity [regardless of when or whether payment is actually made] or, in the case of benefits not payable in the form of an annuity, the date on which all events have occurred which entitle the participant to the benefit). Each benefit must be at least 50% of the participant's benefit. The QPSA or QJSA form of benefit may be waived by the participant if his/her spouse consents (one is not a "spouse" until after the marriage, so a pre-marital consent is ineffective). A spousal consent to a QPSA or QJSA waiver may be specific (requiring a new spousal consent if the participant changes the named beneficiary and/or, in the case of a QJSA, the form of benefit) or general (in which case the participant may change beneficiaries or benefit form without further spousal consent). A spousal consent may be revocable or irrevocable. A QPSA waiver may only be made on or after the participant's attainment of age 35. A QJSA waiver may only be made within 180 days prior to the annuity starting date. If the participant participates in a defined contribution plan, such as a profit-sharing or stock bonus plan, different rules apply if the plan is exempt from the QPSA and QJSA rules. The plan will be exempt from the QPSA and QJSA rules if (i) benefits are not paid in annuity form, (ii) 100% of the death benefits are payable to the spouse, and (iii) the plan is not a transferee of assets from a plan subject to the QPSA/QJSA rules. In the case of a defined contribution plan, the participant may waive, and the spouse may consent to the waiver of, payment of the plan benefits to the spouse on the participant's death. A spouse has no right to any distributions from an exempt profit sharing or stock bonus plan that are made during the participant's lifetime.

Minimum Distribution Rules

NOTE: Although the proposed regulations address both defined contribution plans and defined benefit plans, the following sections relate solely to defined contribution plans (and IRAs).

The minimum required distribution rules (MRD Rules) in IRC Section 401(a)(9) are basically income tax rules that apply to defined contribution plans (such as 401(k) plans), Section 403(b) annuities, certain governmental and tax-exempt employee plans, and certain eligible deferred compensation plans (collectively, "qualified plans"). The MRD rules also apply to IRAs. *See* IRC 401(a)(9), 403(b)(10), 408(a)(6), 457(d)(2). In general, the MRD Rules provide the amount and timing of distributions that must be taken from retirement plans by living participants and by beneficiaries of participants after the death of the participant. The penalty for failure to take a required distribution (of any type) is 50% of the deficiency. IRC 4974. (The proposed regulations provide an exception to the 50% penalty in the case of the participant's final RMD [which will help if the participant dies late in the year]—the penalty is waived as long as the participant's final RMD is distributed to the participant's beneficiary by the beneficiary's tax return filing date, including extensions, for the year during which the participant's final RMD should have been taken.) Although "qualified distributions" from Roth IRAs are not subject to income tax, the SECURE Act also changed the distribution periods applicable to Roth IRAs after the participant's death. *See* Roth IRAs, *infra*.

Life expectancy tables. In certain cases, RMDs are determined using the applicable life expectancy table. The life expectancy tables contain "denominators" (representing years of life expectancy). These denominators used to be called "divisors," but, per the proposed regulations, the term "applicable divisor" should be replaced with the term "applicable denominator" because the 2002 final regulations refer to the applicable divisor as the applicable distribution period, and that will not be a correct reference in view of certain amendments to the MRD Rules made by the SECURE Act.

The life expectancy tables are found in Treas. Reg. § 1.401(a)(9)-9 and consist of (i) the Uniform Lifetime Table (applicable to a living participant and reflecting the joint life expectancy of the participant and an assumed beneficiary who is ten years younger than the participant), (ii) the Joint and Last Survivor Table (applicable to a living participant whose more than ten years younger spouse is the participant's sole beneficiary and reflecting the joint life expectancy of the participant and the participant's more than ten years younger spouse), and (iii) the Single Life Table (applicable after the participant's death in the case of certain beneficiaries who are entitled to a life expectancy distribution and to certain beneficiaries during distribution years 1 through 9 of the applicable 10 year rule). Pursuant to final regulations published on November 12, 2020, new life expectancy tables for purposes of the MRD Rules became effective January 1, 2022. Two of those tables are printed, *infra*.

Distributions During Participant's Lifetime

Required Beginning Date. RMDs to the participant from the participant's retirement plan must begin no later than the participant's RBD. For IRA owners born after June 30, 1949 and for 5-percent owners of the employer sponsoring the qualified plan, RBD is April 1 of the calendar year following the calendar year in which he/she reaches age 72. IRC 401(a)(9)(C)(i). For plan participants who are not 5-percent owners, RBD is April 1 of the calendar year following the later of (i) the year in which the participant reaches age 72 and (ii) the year in which the participant retires. IRC 401(a)(9)(C)(ii). The first "distribution calendar year" is the calendar year prior to the year in which RBD occurs. A Roth IRA owner does not have an RBD because no RMDs are required during the Roth IRA owner's lifetime. IRC 408A(c)(4).

Minimum Distribution Amount. The RMD for each distribution calendar year through and including the year of the participant's death, is determined using the Uniform Lifetime Table unless the participant's spouse is the participant's sole beneficiary and the spouse is more than ten years younger than the participant, in which case the RMD is determined using the Joint and Last Survivor Table. In each case, the prior year-end balance of the retirement plan is divided by the applicable denominator from the applicable table for the age of the participant (or the joint ages of the participant and the participant's more than ten years younger sole beneficiary spouse, if applicable) to determine the RMD for that year. Because a new applicable denominator is obtained from the Uniform Lifetime Table (or Joint and Last Survivor Table, as applicable) each year, a living participant's life expectancy is being recalculated. The participant's more than ten years younger spouse will only be treated as the participant's *sole* beneficiary for purposes of using the applicable denominators from the Joint and Last Survivor Table if either (i) the spouse is named as the participant's sole, outright beneficiary, or (ii) a conduit trust for the benefit of the participant's spouse is named as the participant's sole beneficiary. *See Trusts as Beneficiaries*, *infra.*

Distributions After Participant's Death

Post-Death Distribution Periods. The SECURE Act made significant changes to the MRD Rules applicable to the participant's beneficiaries after the participant's death. The initial question is whether the participant is deemed to have a "designated beneficiary" as of the "determination date." The *determination date* (not a defined term) is September 30 of the year following the year of the participant's death. If the participant does *not* have a designated beneficiary (DB) as of the determination date, the applicable distribution rule differs depending on whether the participant dies *before* or *on or after* RBD (as indicated above, "on or after RBD" will simply be referred to as "after RBD"). If the participant has a designated beneficiary, the applicable distribution period after the participant's death depends on the type of designated beneficiary. In some cases involving multiple designated beneficiaries of a single retirement plan, separate account treatment may be possible. *See Separate Accounts, infra.*

Designated Beneficiary. Not every beneficiary of the participant's retirement plan is a designated beneficiary ("DB"). DBs must be individuals. Therefore, an entity, such as a charity, estate or "non-qualifying trust," cannot be a DB (*but see Trusts as Beneficiaries, infra*). DBs are those individuals designated as beneficiaries of the participant's retirement plan as of the participant's date of death who remain beneficiaries of the retirement plan on the determination date. In the case of multiple beneficiaries of a single retirement plan, beneficiaries who are not DBs can often be "removed" by the determination date via qualified disclaimers and cash outs of their shares. On the other hand, if a named beneficiary survives the participant but then dies prior to the determination date, that beneficiary is still a beneficiary of the participant's retirement plan (unless that beneficiary disclaimed or cashed out his/her interest or unless that beneficiary is deemed to have predeceased the participant pursuant to a simultaneous death provision under applicable state law). Per the proposed regulations, certain other actions taken after the participant's death can affect the determination of the participant's "countable" beneficiaries (discussed *infra*). Per the SECURE Act, there are now two different types of *designated beneficiaries*: (i) "eligible designated beneficiaries" and (ii) "other designated beneficiaries."

Eligible Designated Beneficiary. Certain DBs will be treated as *eligible designated beneficiaries* ("EDBs"). The five categories of individuals who qualify as EDBs are: (i) the participant's surviving spouse, (ii) the participant's minor child, (iii) a disabled individual, (iv) a chronically ill individual, and (v) an individual not in any other category who is not more than ten years younger than the participant. Some sort of life expectancy distribution (not the same for all EDBs) will be available to an EDB after the participant's death.

Other Designated Beneficiary. DBs who are not EDBs are Other Designated Beneficiaries (ODBs), (not a defined term). The SECURE Act basically eliminated the traditional life expectancy distribution method as the distribution period for ODBs. ODBs are subject to the new 10 year rule whether the participant dies before or after RBD. Note, however, in the case of ODBs, the proposed regulations interpret the 10 year rule differently depending on whether the participant dies before or after RBD.

Distribution Rules if Participant's Beneficiary is *Not* a DB. Entities (charities, estates, and non-qualifying trusts) are not DBs. *The SECURE Act did not change the MRD rules applicable to these beneficiaries.* Distributions after the participant's death when there is no DB depend on whether the participant dies before or after RBD.

A. **Participant's Death *Before* RBD with No DB.** If the participant dies before RBD without having a DB, the 5 year rule applies. Pursuant to the 5 year rule, one hundred percent of the inherited retirement plan must be distributed by December 31 of the year that contains the fifth anniversary of the participant's death. No distributions have to be taken during the first four years pursuant to the 5 year rule, but the entire inherited IRA must be fully distributed by the end of the fifth year.

B. **Participant's Death *After* RBD with No DB.** If the participant dies after RBD without having a DB, the participant's remaining single life expectancy, not recalculated (the "ghost life expectancy"), is the applicable distribution method. RMDs to the beneficiary must commence by December 31 of the year following the year of the participant's death. For the first distribution year, the prior year end balance of the inherited retirement plan is divided by the applicable denominator from the Single Life Table for the age the participant attained (or would have attained) in the year of death. That applicable denominator is reduced by one in each subsequent year to calculate the RMD in each subsequent year.

Participant's Final RMD. If the participant dies after RBD without having taken the full amount of the RMD from the participant's retirement plan prior to death, then that RMD (or the shortfall) must be distributed by December 31 of the year of the participant's death to the participant's beneficiary/beneficiaries. Failure to take the participant's final RMD incurs a 50% penalty. As noted earlier, the proposed regulations provide for a waiver of the penalty for failure to take the participant's final RMD by December 31 of the year of death as long as the beneficiary takes the participant's final RMD by the due date, including extensions, of the beneficiary's tax return for the year of the participant's death.

Distribution Rules if Participant's Beneficiary *is* a DB. The applicable distribution rules after the participant's death depend on the type of DB (EDB or ODB) and, in the case of EDBs, the particular type of EDB. For ODBs, based on the proposed regulations, the distribution method also varies depending on whether the participant dies before or after RBD. All ODBs are now subject to the 10 year rule (or, more accurately, to one of the 10 year rules).

A. **Other Designated Beneficiary.** If the beneficiary is an ODB, the new 10 year rule applies to distributions from the beneficiary's inherited IRA after the participant's death. The 10 year rule applies to an ODB whether the participant dies before or after RBD, but, per the proposed regulations, the form of the 10 year rule differs based on whether the participant dies before or after RBD.

   1. **Participant Dies Before RBD.** If the participant dies before RBD and the beneficiary is an ODB, the 10 year rule applies like the 5 year rule. That is, one hundred percent of the inherited IRA must be distributed by December 31 of the year that contains the tenth anniversary of the participant's death. No distributions are required (although they are permitted) prior to the ultimate distribution date.

   2. **Participant Dies After RBD.** The proposed regulations provide that if the participant dies after RBD and the participant's beneficiary is an ODB, the ODB must take required minimum distributions (RMDs) from the ODB's inherited IRA during years 1 through 9 of the period provided by the 10 year rule and must fully distribute all remaining amounts in the inherited IRA by December 31 of the year that contains the tenth anniversary of the participant's death. As noted in the preamble to the proposed regulations, if the participant dies after RBD,

distributions to the ODB after the participant's death "must satisfy section 401(a)(9)(B)(i) [the "at least as rapidly rule"] as well as section 401(a)(9)(B)(ii) [the 10 year rule]."

B. **Eligible Designated Beneficiaries (EDBs).** The distribution rules for EDBs vary depending on the particular type of EDB.

1. **Participant's Spouse.** To qualify for EDB treatment as the participant's surviving spouse, the named beneficiary of the participant's retirement plan must be either the participant's spouse, outright, or a conduit trust for the benefit of the participant's spouse. An accumulation trust for the spouse will *not* qualify for the surviving spouse EDB rule. *See Prop. Reg. § 1.401(a)(9)-4(f)(6)(ii), Example 2(C).* The SECURE Act did not change the IRA rollover option available to the participant's surviving spouse named as the outright beneficiary of the participant's retirement plan. If the participant's surviving spouse rolls over the participant's retirement plan to an IRA in the spouse's name (or assumes the participant's IRA as his/her own), the spouse will thereafter be treated as the participant of that IRA and the MRD Rules applicable to a living participant will apply. If the participant's spouse does not make a spousal IRA rollover, so that the spouse remains in the position of being the participant's beneficiary, the commencement date rules and the distribution rules are basically the same as before the SECURE Act, except that the age component of RBD has been changed from 70 ½ to 72. Therefore, if the participant dies before RBD, RMDs to the spouse from the inherited retirement plan do not have to begin until December 31 of the year in which the participant would have reached age 72 (the spouse may take discretionary distributions from the inherited retirement plan at any time prior to that date without a penalty, regardless of the spouse's age). If the participant dies after RBD, RMDs to the spouse must commence by December 31 of the year following the year of the participant's death. Once RMDs to the spouse commence, they are based on the spouse's life expectancy per the Single Life Table, *recalculated each year,* with the following exceptions. If the participant dies before RBD, the spouse may be required to use or may have the option to use the 10 year rule rather than the spouse's life expectancy, depending on the terms of the retirement plan (or the participant's election). If the participant dies after RBD and the participant's ghost life expectancy exceeds the spouse's life expectancy, then the applicable distribution period is the deceased participant's ghost life expectancy (i.e., the longer of the two rules applies). If the spouse's life expectancy is the distribution period, to determine the RMD for the applicable distribution year, the prior year end balance of the inherited retirement plan is divided by the applicable denominator from the Single Life Table for the age the spouse has attained (or would have attained) in that distribution calendar year. Each year, the spouse obtains a new applicable denominator from the Single Life Table for the spouse's attained age (or age the spouse would have attained) in that year to calculate that year's RMD. In that way, the spouse's life expectancy is being recalculated. The participant's spouse is the only type of beneficiary of a deceased participant who is permitted to recalculate life expectancy.

2. **Participant's Minor Child.** Only the participant's minor child (and not someone else's minor child) can qualify for this category of EDB. If the beneficiary of the participant's retirement plan is (i) the participant's minor child, outright, or via a custodian pursuant to the Uniform Transfers to Minors Act (UTMA) or (ii) a conduit trust for the benefit of the participant's minor child, RMDs to the minor child prior to complete distribution per the 10 year rule (see below), will be based on the minor child's life expectancy, not recalculated, per the Single Life Table. The proposed regulations appear to allow an accumulation trust for the minor

child to work as well as long as the trust terminates on the later of (i) one year after the participant's death and (ii) the minor child reaching age thirty-one. *See* age 31 trust, *infra*. If the participant dies before RBD, the minor child may be required to use or may have the option to use the 10 year rule rather than the minor child's life expectancy, depending on the terms of the retirement plan (or the participant's election). Distributions to the minor child from the inherited IRA must commence by December 31 of the year following the year of the participant's death. To calculate the RMD for the first distribution year, the prior year end balance of the inherited IRA is divided by the applicable denominator for the age the child has attained (or would have attained) in the first distribution year. In each subsequent year, the prior year's applicable denominator is reduced by one to calculate that year's RMD. Once the minor child reaches the *age of majority*, the 10 year rule applies. The proposed regulations provide that the age of majority is 21. Having a definite age for the age of majority is one provision in the proposed regulations that is an improvement over the SECURE Act as written. In regard to how the 10 year rule is applied once the child reaches age 21, the proposed regulations are not entirely clear. At least one nationally known commentator has stated that, because the child becomes an ODB (i.e., a regular DB) upon reaching age 21, the 10 year rule should be applied depending on whether the participant died before or after RBD (as is the case with other ODBs). On the other hand, the members of ACTEC's task force preparing comments to the proposed regulations believe that RMDs continue to the child for years 1 through 9 of the period covered by the 10 year rule (i.e., during the time the child is between ages 21 and 31), regardless of when the participant died. That is analogous to the rule applicable when an EDB dies and there is a "transition" from an EDB to an ODB. The task force is seeking clarification of this issue. In any event, assuming the child does not die prior to reaching age 31, the full amount remaining in the child's inherited IRA must be distributed to the child when the child reaches age 31.

3. **Disabled and Chronically Ill Beneficiaries.** Disabled beneficiaries and chronically ill beneficiaries are two of the five categories of EDBs. The definitions of these EDBs are in subsections (III) and (IV) of IRC 401(a)(9)(E)(ii). The beneficiary's status as disabled or chronically ill is determined as of the participant's date of death. The proposed regulations provide that, if an individual has been determined to be disabled by the Social Security Administration, that determination is sufficient for purposes of the MRD Rules. That is not the only way for an individual to qualify as disabled, however. Appropriate documentation confirming that the individual is disabled or chronically ill must be provided to the plan administrator (which includes an IRA custodian) by October 31 of the year following the year of the participant's death. The SECURE Act recognizes that, normally, a participant who wants to provide benefits to a disabled or chronically ill beneficiary from a retirement plan will name a trust for the disabled or chronically ill beneficiary as beneficiary of the retirement plan, rather than naming such individual as the outright beneficiary of the retirement plan (although it is possible to name a disabled or chronically ill beneficiary as an outright beneficiary and obtain EDB treatment for that individual). Prior to the SECURE Act, the trust created for the benefit of a disabled or chronically ill beneficiary was usually structured (in terms of the MRD Rules) as a qualified see-through trust in the form of an accumulation trust, rather than in the form of a conduit trust. In the case of a trust drafted as an accumulation trust, no amounts withdrawn from the inherited IRA that belongs to the trust have to be distributed "forthwith" (upon receipt) to the current beneficiary of the trust. Instead, the

Trustee can accumulate all or any portion of those withdrawn amounts in the trust. In contrast, all amounts withdrawn from the inherited IRA that belongs to a conduit trust must always be distributed upon receipt to the current beneficiary of the trust. Per the SECURE Act, in the case of the participant's spouse, and a not more than ten years younger beneficiary, to obtain EDB treatment when a trust for the benefit of the EDB individual is named as beneficiary (rather than the individual being named outright), the trust must be in the form of a conduit trust. In most cases, a conduit trust will not be the best choice for a disabled or chronically ill beneficiary. Thus, IRC 401(a)(9)(H)(iv) and (v) provide special rules applicable to a new type of trust for the benefit of disabled and chronically ill beneficiaries called an "Applicable Multi-Beneficiary Trust" ("AMBT"). In essence, the AMBT is a specialized form of accumulation trust that can be used for disabled and chronically ill beneficiaries. Per IRC 401(a)(9)(H)(v), an Applicable Multi-Beneficiary Trust is a trust that has more than one beneficiary, all of which are DBs, and at least one of which is a disabled or chronically ill beneficiary. Per the proposed regulations, there are two types of AMBTs: Type I and Type II. IRC 401(a)(9)(H)(iv) provides that, if, per the terms of the trust named as beneficiary of the participant's retirement plan, (I) the trust is to be divided immediately upon the participant's death into separate trusts for each beneficiary *or* (II) no individual other than a disabled or chronically ill beneficiary has any right to the participant's retirement plan until the death of all such EDBs, clause (ii) of IRC 401(a)(9)(H) (the exception to the 10 year rule for EDBs) shall be applied separately with respect to the portion of the participant's interest in the retirement plan payable to the trust for the benefit of the disabled or chronically ill beneficiary. These provisions override the separate account rule in the case of an Applicable Multi-Beneficiary Trust that is a sub-trust of a trust named as beneficiary of the participant's retirement plan as long as the other sub-trusts only have DBs as beneficiaries (and qualify for DB treatment) and the trust named as beneficiary (such as the participant's revocable trust) is divided "immediately" upon the participant's death into separate trusts. The term *immediately* will need to be clarified by final regulations. Per the proposed regulations, a Type II AMBT must "identify" one or more disabled and/or chronically ill individuals as the sole beneficiaries entitled to the participant's plan benefits distributable to the trust and must state that no individual other than the disabled and/or chronically ill beneficiaries has any right to any of the participant's plan benefits until after the death of all disabled and chronically ill individuals who are beneficiaries of the trust. Presumably, the EDBs in this category could be identified in a manner other than by name. RMDs to the AMBT are based on the life expectancy of the oldest disabled or chronically ill beneficiary of the trust. This was not clear per the SECURE Act, but is clear from the proposed regulations. Using the life expectancy of the disabled/chronically ill beneficiary to determine RMDs is a departure from the pre-SECURE Act rules applicable to accumulation trusts, in which RMDs were determined using the life expectancy of the oldest DB (taking into account all "countable" beneficiaries of the trust, including at least first tier remainder beneficiaries). Thus, if the AMBT is properly structured, the remainder beneficiaries of the trust (all of whom must be DBs) are ignored for purposes of calculating the RMDs distributable to the trust during the life or lives of the disabled and chronically ill beneficiaries. Note, however, if the participant dies before RBD, the disabled/chronically ill beneficiary may be required to use or may have the option to use the 10 year rule rather than the disabled/chronically ill beneficiary's life expectancy, depending on the terms of the retirement plan (or the participant's election). A Special Needs Trust ("SNT") could be drafted to qualify as an AMBT. However, certain provisions that are sometimes included in

SNTs (such as permitting the distribution of "incidental benefits" to family members of the special needs beneficiary and "poison pill" provisions) probably need to be eliminated to qualify the SNT as an AMBT. Fortunately, the proposed regulations allow trusts to be modified by court action after the participant's death. Those modifications will be taken into account if accomplished (i.e., effective) by September 30 of the year following the year of the participant's death. The modified terms of the trust must be provided to the plan administrator by October 31 of the year following the year of the participant's death. In view of these qualification deadlines, very quick action will be needed to modify the trust if the participant dies late in the year. More guidance is needed in regard to several AMBT issues.

4. **Beneficiaries Not More Than Ten Years Younger Than the Participant.** An individual who is not in any other EDB category and who is "not more than ten years younger" than the participant (which includes an individual older than the participant) is a type of EDB who will be referred to as an NMTTYYB. The proposed regulations determine whether this rule applies using the actual birthdates of the participant and the beneficiary (not birth years). To qualify for this EDB category, either the NMTTYYB is named as the outright beneficiary or a conduit trust for the NMTTYYB is named as the beneficiary of the participant's retirement plan. RMDs to this type of EDB will be based on the single life expectancy of the EDB, not recalculated, except as noted in the following sentences. If the participant dies after RBD, the NMTTYYB uses the longer of the NMTTYYB's life expectancy or the participant's ghost life expectancy. If the participant dies before RBD, the NMTTYYB may be required to use or may have the option to use the 10 year rule rather than the NMTTYYB's life expectancy, depending on the terms of the retirement plan (or the participant's election). Assuming a life expectancy distribution based on the NMTTYYB's life expectancy applies, the first RMD must be taken by December 31 of the year following the year of the participant's death. In that case, to determine the RMD in the first distribution year, the prior year end balance of the inherited IRA is divided by the applicable denominator from the Single Life Table for the age the NMTTYB has attained (or would have attained) in the first distribution year. That denominator is reduced by one in each subsequent distribution year to determine the RMD in each of those future years. The participant's "ghost life expectancy" was explained in the "No DB" section, <u>supra.</u> If the NMTTYYB is using the participant's ghost life expectancy (rather than the NMTTYYB's life expectancy), when the applicable denominator would have been one or less than one had the NMTTYYB's life expectancy been used to calculate RMDs, the "termination point" is reached and the entire remaining balance in the inherited IRA must be distributed.

Roth IRAs. Even though "qualified distributions" from Roth IRAs after the participant's death are not subject to income tax, the distribution rules per the SECURE Act applicable after the death of the participant also apply to Roth IRAs. Note that, because a Roth IRA participant has no RMDs during life, regardless of the Roth IRA participant's age at death, the Roth IRA participant is deemed to have died before RBD. Thus, if a non-DB is the beneficiary of a Roth IRA, the 5 year rule will apply. If an ODB is the beneficiary of a Roth IRA, the 10 year rule will apply (i.e., the 10 year rule applicable when the participant dies before RBD). If an EDB is the beneficiary of a Roth IRA, the post-death distribution rule applicable to that particular type of EBD will apply.

Distributions After the Death of an EDB

Per the SECURE Act, after the death of an EDB who was taking RMDs using a life expectancy distribution method, the beneficiary of the EDB is subject to the 10 year rule. That is true even if the EDB's beneficiary would qualify as an EDB. In this case, the EDB's beneficiary must continue taking RMDs after the EDB's death based on the EDB's distribution period until the earlier to occur of (i) exhaustion of the inherited IRA or (ii) December 31 of the year that contains the tenth anniversary of the EDB's death.

Trusts as Beneficiaries

If a trust named as beneficiary of the participant's retirement plan meets the four trust regulatory requirements, then the beneficiaries of the trust are treated as the beneficiaries of the participant's retirement plan. The four trust regulatory requirements are (i) the trust is a valid trust under state law, or would be but for the fact that there is no corpus; (ii) the trust is irrevocable or will, by its terms, become irrevocable upon the participant's death; (iii) the beneficiaries of the trust who are beneficiaries with respect to the trust's interest in the participant's retirement plan are "identifiable" from the trust instrument; and (iv) the required documentation is provided to the plan administrator by October 31 of the year following the year of the participant's death. Per the proposed regulations, if a trust meets the four trust regulatory requirements, it is a "see-through trust," which means that the beneficiaries of the trust are treated as the beneficiaries of the participant's retirement plan. Prior to the SECURE Act, the final regulations that were published in April 2002 recognized two types of qualified see-through trusts, which were not named as such in the final regulations, but which were referred to by practitioners as "accumulation trusts" (*see* Treas. Reg. § 1.401(a)(9)-5, Q & A-7(c)(3), Example 1) and "conduit trusts" (*see* Treas. Reg. § 1.401(a)(9)-5, Q & A-7(c)(3), Example 2). The proposed regulations actually use these terms and define them. The proposed regulations also define "current beneficiary" and "secondary beneficiary." A conduit trust must specifically provide that the entire amount distributed from the inherited retirement plan to the trust (whether the amount distributed is the RMD or a larger amount) must be distributed out of the trust "forthwith" (i.e., upon receipt) to the current beneficiary of the trust. Because the conduit trust is merely a "flow through," remainder beneficiaries of the conduit trust, who are referred to as "secondary beneficiaries," do not have to be taken into account for purposes of identifying all beneficiaries of the conduit trust with an interest in the participant's retirement plan and the current beneficiary of the trust is treated as the sole beneficiary of the participant's retirement plan payable to the trust. On the other hand, an accumulation trust does *not* have to provide that amounts distributed to the trust from the inherited IRA that belongs to the trust will be distributed from the trust to the current beneficiary in the year the distribution is received. Thus, distributions from the inherited IRA that belongs to the trust can be accumulated in the trust. For that reason, both the current beneficiary and at least "first tier" remainder beneficiaries (because they might receive those distributed amounts in the future), must be taken into account for purposes of identifying all beneficiaries of the accumulation trust who have an interest in the participant's retirement plan. Often second tier and other remainder beneficiaries of accumulation trusts must be taken into account as well. The proposed regulations describe two different types of secondary beneficiaries, one of which is taken into account and the other of which is not. If a particular secondary beneficiary of an accumulation trust (such as a second tier remainder beneficiary of the trust) would only receive an interest in the participant's plan (including accumulations) due to the death of *another* secondary beneficiary (i) who survived the participant (such as the first tier remainder beneficiary of the trust) and (ii) who would have received all interests in the plan upon the death of the current beneficiary but who died before the current beneficiary's interest terminated, that particular secondary beneficiary (i.e., the second tier remainder beneficiary) is not taken into account. The use of retirement plan benefits to pay post death expenses (including taxes) after the September 30 determination date means that the participant's estate (a non DB) has an interest in the participant's retirement plan. As noted earlier, the SECURE Act added a new type of trust for disabled and chronically ill EDBs: the Applicable Multi-Beneficiary Trust (discussed supra). In addition, the proposed regulations add a new type of trust that can be used for any "young beneficiary" that may be referred to as an "age 31 trust." If the trust provides that the entire interest in the plan will be distributed free of trust to the beneficiary by the later of (i) the end of the year after the participant's death and (ii) the end of the tenth year after the beneficiary reaches age 21 (i.e., when the beneficiary reaches age 31), the current beneficiary will be treated as the sole beneficiary of the trust for purposes of the trust rules. Thus, all "secondary beneficiaries" (i.e., remainder beneficiaries) of the age 31 trust would be ignored. The proposed regulations provide that the mere possession by the current beneficiary of a power of appointment over the trust, even a power of appointment that could be exercised in favor of entities, such as charities, is not fatal under the MRD Rules. That answers a longstanding question. The proposed regulations address the effect of exercising and not exercising powers of appointment, as well as restricting such powers, both in cases before and after the September 30 determination date. In addition, the proposed regulations specifically recognize modifications, reformations and decantings pursuant to state law provisions after the participant's death as effective ways to remove or add a beneficiary (and fix problems with the trust), as long as the particular post-death action is legally effective by the determination date.

Separate Accounts

Depending on the structure of the beneficiary designation, it is possible for multiple beneficiaries of a single retirement plan to obtain separate account treatment, which means that each beneficiary will have his, her or its own applicable distribution period after the participant's death. To obtain separate account treatment for separately named beneficiaries, a separate account must be established and maintained for each individual beneficiary by December 31 of the year following the year of the participant's death, bearing its own pro rata share of gains and losses and otherwise separately accounted for to comply with the regulations. In general, separate account treatment is not available to the beneficiaries of a single trust (but see earlier discussion of an AMBT formed when the trust named as beneficiary of the participant's plan is divided immediately on the participant's death). Thus, to insure separate account treatment in the case of multiple trusts that will be the beneficiaries of the participant's retirement plan, it is best to name the separate trusts or sub-trusts directly in the beneficiary designation, rather than naming a single trust (such as a revocable trust) that by its terms divides into separate sub-trusts for separate beneficiaries on the participant's death.

Rollovers from Qualified Plans and IRAs

To understand why rollovers from qualified plans and pre-tax IRAs are so valuable, consider the fact that, as a general rule, distributions from qualified plans and pre-tax IRAs are taxable as ordinary income in the year of receipt. A properly executed rollover is not treated as a taxable distribution from the qualified plan or IRA (each referred to as a "retirement plan" unless a distinction is necessary). In very general terms, there are two types of rollovers: (i) a 60-day rollover and (ii) a trustee to trustee transfer. A 60-day rollover (which can be referred to as an *indirect rollover*) occurs when a distribution is made from the retirement plan to the participant or the participant's spouse and the recipient deposits that distribution into another retirement plan within 60 days. In the case of a 60-day rollover, 20% of the distribution amount will be withheld for federal income tax purposes. IRC 3405(c)(1). To avoid income tax on the 20% amount withheld (because it is a distribution), the participant or participant's spouse (as applicable) can deposit other assets equal to the amount of the tax withheld into the recipient retirement plan. A trustee to trustee transfer (which can be referred to as a *direct rollover*) involves the transfer from one retirement plan directly to another retirement plan without the funds ever being distributed to a taxable account. The trustee or custodian of both the transferring retirement plan and the receiving retirement plan are the only persons directly involved in the transfer (the transferred amount does not go through the hands of the participant, spouse or beneficiary). Over the years, many participants and spouses missed the 60-

day deadline in the case of the 60-day rollover. Frequently, this failure to meet the deadline was the result of errors by the financial institution, death or serious illness of a family member, or other disasters, such as damage to the taxpayer's principal residence. The IRS issued numerous favorable private letter rulings in these cases, waiving the 60-day deadline. Finally, the IRS published Rev. Proc. 2016-47, 2016-37 IRB 346, which created a new procedure for obtaining a waiver of the 60-day deadline. If that procedure is followed, the taxpayer will "self-certify" that one or more of the particular "hardships" outlined in the procedure applied in the taxpayer's case.

In the case of the participant and the participant's surviving spouse, all or part of any eligible rollover distribution may be rolled over to an IRA or to another qualified plan. An eligible rollover distribution is any otherwise taxable distribution from a qualified plan or pre-tax IRA excluding (among certain other items) (i) a required minimum distribution (RMD), (ii) a distribution that is one of a series of substantially equal periodic payments, and (iii) a hardship distribution.

A designated beneficiary other than the participant's surviving spouse who is entitled to an interest in the participant's retirement plan on the participant's death may make a direct rollover (i.e., trustee to trustee transfer) from the participant's retirement plan to an inherited IRA or Roth IRA, but not to another qualified plan.

Distributions after the participant's death to the beneficiaries of the participant's retirement plan will be made depending on the classification of the beneficiary (*see* Minimum Distribution Rules, supra).

Table III
(Uniform Lifetime Table: Treas. Reg. § 1.401(a)(9)-9(c))

Table Showing Distribution Period Used to Determine Required Minimum Distributions (RMDs) For a Living Participant*

Age of the Participant	Distribution Period	Age of the Participant	Distribution Period
72	27.4	97	7.8
73	26.5	98	7.3
74	25.5	99	6.8
75	24.6	100	6.4
76	23.7	101	6.0
77	22.9	102	5.6
78	22.0	103	5.2
79	21.1	104	4.9
80	20.2	105	4.6
81	19.4	106	4.3
82	18.5	107	4.1
83	17.7	108	3.9
84	16.8	109	3.7
85	16.0	110	3.5
86	15.2	111	3.4
87	14.4	112	3.3
88	13.7	113	3.1
89	12.9	114	3.0
90	12.2	115	2.9
91	11.5	116	2.8
92	10.8	117	2.7
93	10.1	118	2.5
94	9.5	119	2.3
95	8.9	120 & over	2.0
96	8.4		

*Use Joint Life and Last Survivor Expectancy Table (TABLE II) instead of Uniform Lifetime Table (i) if the sole beneficiary of participant's plan or IRA is participant's spouse and (ii) if participant's spouse is more than ten years younger than participant. Treas. Reg. § 1.401(a)(9)-9(d). Marital status is determined on January 1 each year. The ten year age difference is based on years and not actual birthdates. Spouse is sole beneficiary of participant if spouse is outright beneficiary or if trust for spouse named as participant's beneficiary is a conduit trust.

Table I
(Single Life Expectancy Table: Treas. Reg. § 1.401(a)(9)-9(b))
For Use by Beneficiaries of Deceased Participants*

Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy
0	84.6	30	55.3	60	27.1	90	5.7
1	83.7	31	54.4	61	26.2	91	5.3
2	82.8	32	53.4	62	25.4	92	4.9
3	81.8	33	52.5	63	24.5	93	4.6
4	80.8	34	51.5	64	23.7	94	4.3
5	79.8	35	50.5	65	22.9	95	4.0
6	78.8	36	49.6	66	22.0	96	3.7
7	77.9	37	48.6	67	21.2	97	3.4
8	76.9	38	47.7	68	20.4	98	3.2
9	75.9	39	46.7	69	19.6	99	3.0
10	74.9	40	45.7	70	18.8	100	2.8
11	73.9	41	44.8	71	18.0	101	2.6
12	72.9	42	43.8	72	17.2	102	2.5
13	71.9	43	42.9	73	16.4	103	2.3
14	70.9	44	41.9	74	15.6	104	2.2
15	69.9	45	41.0	75	14.8	105	2.1
16	69.0	46	40.0	76	14.1	106	2.1
17	68.0	47	39.0	77	13.3	107	2.1
18	67.0	48	38.1	78	12.6	108	2.0
19	66.0	49	37.1	79	11.9	109	2.0
20	65.0	50	36.2	80	11.2	110	2.0
21	64.1	51	35.3	81	10.5	111	2.0
22	63.1	52	34.3	82	9.9	112	2.0
23	62.1	53	33.4	83	9.3	113	1.9
24	61.1	54	32.5	84	8.7	114	1.9
25	60.2	55	31.6	85	8.1	115	1.8
26	59.2	56	30.6	86	7.6	116	1.8
27	58.2	57	29.8	87	7.1	117	1.6
28	57.3	58	28.9	88	6.6	118	1.4
29	56.3	59	28.0	89	6.1	119	1.1
						120+	1.0

*Examples. If (i) participant's spouse is participant's sole beneficiary, (ii) spouse does not become participant by making an IRA rollover or assuming the participant's IRA as spouse's own, and (iii) spouse is using spouse's single life expectancy to calculate RMDs after participant's death, use this table to obtain the applicable denominator for spouse's age each year (that means spouse's life expectancy is being recalculated). If participant's beneficiary is any other eligible designated beneficiary (EDB) and EDB's life expectancy is being used to calculate RMDs, use this table to obtain the applicable denominator for EDB's age as of birthday in year following year of participant's death (first distribution year), and reduce denominator by one each year thereafter to calculate RMD for that year (non spouse EDBs cannot recalculate life expectancy). If participant dies after RBD without having a DB, participant's "ghost life expectancy" is used to calculate RMDs. In that case, for the first distribution year (i.e., the year after the participant's death), the applicable denominator is the Life Expectancy for the participant's age as of his birthday in the year of death minus 1. In each subsequent year, the number 1 is subtracted from the prior year's denominator to calculate the RMD to the non-DB.

INTEREST RATES

Applicable Federal Rate Rules

Applicable Federal Rates ("AFRs") are published monthly (on about the 20th of the month) by the Internal Revenue Service; they provide a guideline interest rate (often with adjustments) for a variety of tax purposes. IRC 1274.

Term of Debt Instrument	**AFR to Be Used by Taxpayers**
Not over 3 Years	The Short-Term AFR
Over 3 Years, not over 9 Years	The Mid-Term AFR
Over 9 Years	The Long-Term AFR

Choice of Interest Rates

Donors making a split-interest charitable gift have the choice to value such gift using 120% of the Mid-Term AFR for the current month, or for either of the two calendar months preceding the calendar month of the gift, whichever is most favorable. By acting late in a calendar month, when the next month's factor is known (but not yet applicable), a choice of factors from four months can be available.

Use Highest Possible Rate	Use Lowest Possible Rate
• Charitable remainder trust • Charitable gift annuity (for larger deduction)	• Charitable lead trust • Charitable gift annuity (for larger tax-exempt portion) • Gift of remainder interest in farm or personal residence.

Federal interest rates for current and prior periods are available on the IRS website:
https://apps.irs.gov/app/picklist/list/federalRates.html

IRC Section 7520 Rates*

7520 Rates Since May 1, 1989

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
2022	1.6	1.6	2.0	2.2								
2021	0.6	0.6	0.8	1.0	1.2	1.2	1.2	1.2	1.0	1.0	1.4	1.6
2020	2.0	2.2	1.8	1.2	0.8	0.6	0.6	0.4	0.4	0.4	0.4	0.6
2019	3.4	3.2	3.2	3.0	2.8	2.8	2.6	2.2	2.2	1.8	2.0	2.0
2018	2.6	2.8	3.0	3.2	3.2	3.4	3.4	3.4	3.4	3.4	3.6	3.6
2017	2.4	2.6	2.4	2.6	2.4	2.4	2.2	2.4	2.4	2.2	2.4	2.6
2016	2.2	2.2	1.8	1.8	1.8	1.8	1.8	1.4	1.4	1.6	1.6	1.8
2015	2.2	2.0	1.8	2.0	1.8	2.0	2.2	2.2	2.2	2.0	2.0	2.0
2014	2.2	2.4	2.2	2.2	2.4	2.2	2.2	2.2	2.2	2.2	2.2	2.0
2013	1.0	1.2	1.4	1.4	1.2	1.2	1.4	2.0	2.0	2.4	2.0	2.0
2012	1.4	1.4	1.4	1.4	1.6	1.2	1.2	1.0	1.0	1.2	1.0	1.2
2011	2.4	2.8	3.0	3.0	3.0	2.8	2.4	2.2	2.0	1.4	1.4	1.6
2010	3.0	3.4	3.2	3.2	3.4	3.2	2.8	2.6	2.4	2.0	2.0	1.8
2009	2.4	2.0	2.4	2.6	2.4	2.8	3.4	3.4	3.4	3.2	3.2	3.2
2008	4.4	4.2	3.6	3.4	3.2	3.8	4.2	4.2	4.2	3.8	3.6	3.4
2007	5.6	5.6	5.8	5.6	5.6	5.6	6.0	6.2	5.8	5.2	5.2	5.0
2006	5.4	5.2	5.4	5.6	5.8	6.0	6.0	6.2	6.0	5.8	5.6	5.8
2005	4.6	4.6	4.6	5.0	5.2	4.8	4.6	4.8	5.0	5.0	5.0	5.4
2004	4.2	4.2	4.0	3.8	3.8	4.6	5.0	4.8	4.6	4.4	4.2	4.2
2003	4.2	4.0	3.8	3.6	3.8	3.6	3.0	3.2	4.2	4.4	4.0	4.2
2002	5.4	5.6	5.4	5.6	6.0	5.8	5.6	5.2	4.6	4.2	3.6	4.0
2001	6.8	6.2	6.2	6.0	5.8	6.0	6.2	6.0	5.8	5.6	5.0	4.8
2000	7.4	8.0	8.2	8.0	7.8	8.0	8.0	7.6	7.6	7.4	7.2	7.0
1999	5.6	5.6	5.8	6.4	6.2	6.4	7.0	7.2	7.2	7.2	7.4	7.4
1998	7.2	6.8	6.8	6.8	6.8	7.0	6.8	6.8	6.6	6.2	5.4	5.4
1997	7.4	7.6	7.8	7.8	8.2	8.2	8.0	7.6	7.6	7.6	7.4	7.2
1996	6.8	6.8	6.6	7.0	7.6	8.0	8.2	8.2	8.0	8.0	8.0	7.6
1995	9.6	9.6	9.4	8.8	8.6	8.2	7.6	7.2	7.6	7.6	7.4	7.2
1994	6.4	6.4	6.4	7.0	7.8	8.4	8.2	8.4	8.4	8.6	9.0	9.4
1993	7.6	7.6	7.0	6.6	6.6	6.4	6.6	6.4	6.4	6.4	6.0	6.2
1992	8.2	7.6	8.0	8.4	8.6	8.4	8.2	7.8	7.2	7.0	6.8	7.4
1991	9.8	9.6	9.4	9.6	9.6	9.6	9.6	9.8	9.6	9.0	8.6	8.4
1990	9.6	9.8	10.2	10.6	10.6	11.0	10.6	10.4	10.2	10.6	10.6	10.2
1989	10*	10*	10*	10*	11.6	11.2	10.6	10.0	9.6	10.2	10.0	9.8

* The discount rate used to value any annuity, interest for life or a term of years or any remainder or reversionary interest is equal to 120% of the annual federal mid-term rate under IRC 1274(d)(1), rounded to the nearest 0.2%. However, for split-interest charitable gifts, the rate for the current month or either of the two months preceding the month in which the valuation date falls may be used [IRC 7520]. Section 7520 became effective May 1, 1989. For transactions occurring in the first four months of 1989, regulations required use of a 10% interest assumption.

For updates to the AFR/7520 Rates and access to additional professional fiduciary resources please visit actec.org/professionals/wealth-advisors-resources.

CHARITABLE DEDUCTION

Percentage Limitations Under IRC § 170

Transfer To	AGI Limitation	Deduction Based On
Public charity	60% for cash* 30% for long-term capital gain property**	Fair market value; limited to lower of basis or fair market value if not long term capital gain property; contribution deduction for gifts of tangible personal property limited to lower of basis or fair market value unless charity will use property in a way related to its tax exempt purpose
Private foundation	30% for cash 20% for long-term capital gain property**	Fair market value for cash and publicly traded long-term appreciated securities; lower of basis or fair market value for property other than publicly traded securities held long term

* For years beginning after 12/31/2017 and before 1/1/2026. This change to the prior 50% limitation was made by the Tax Cuts and Jobs Act (passed on 12/20/2017). The CARES Act (enacted 3/27/2020) allowed individuals who itemize to deduct up to 100% of their AGI for qualified cash contributions made during 2020 and 2021. The CARES Act also allowed non-itemizers to deduct $300 for cash contributions to public charities and private operating foundations. In 2020, the $300 deduction applied to the "tax unit" (a married couple filing jointly is one tax unit), while in 2021, the $300 deduction applied to each spouse in the case of a married couple filing jointly (total deduction of $600).

** Cryptocurrency (such as Bitcoin) is in this category and not in the cash category.

American Council on Gift Annuities
Maximum Recommended Rates Single Life
As of July 1, 2020

Age	Rate	Age	Rate	Age	Rate
5-8	1.5	51	3.4	76	5.6
9-13	1.6	52	3.5	77	5.8
14-17	1.7	53-54	3.6	78	6
18-21	1.8	55-56	3.7	79	6.2
22-24	1.9	57-58	3.8	80	6.5
25-28	2	59-60	3.9	81	6.7
29-30	2.1	61-62	4	82	7
31-33	2.2	63	4.1	83	7.2
34-35	2.3	64-65	4.2	84	7.4
36-37	2.4	66	4.3	85	7.6
38-39	2.5	67	4.4	86	7.8
40-41	2.6	68	4.5	87	8
42	2.7	69	4.6	88	8.2
43-44	2.8	70	4.7	89	8.4
45	2.9	71	4.8	90+	8.6
46-47	3	72	4.9		
48	3.1	73	5.1		
49	3.2	74	5.2		
50	3.3	75	5.4		

American Council on Gift Annuities
Maximum Recommended Rates Two Lives – Joint and Survivor
As of July, 2020

Younger Age	Older Age	Rate	Younger Age	Older Age	Rate
5	5-95+	1.3	37	37-95+	2.1
6	6-95+	1.3	38	38-95+	2.1
7	7-95+	1.3	39	39-95+	2.2
8	8-95+	1.3	40	40-95+	2.2
9	9-95+	1.4	41	41-95+	2.2
10	10-95+	1.4	42	42-95+	2.3
11	11-95+	1.4	43	43-95+	2.3
12	12-95+	1.4	44	44-95+	2.4
13	13-95+	1.4	45	45-95+	2.4
14	14-95+	1.5	46	46-95+	2.5
15	15-95+	1.5	47	47-95+	2.5
16	16-95+	1.5	48	48-95+	2.6
17	17-95+	1.5	49	49-95+	2.7
18	18-95+	1.6	50	50-95+	2.7
19	19-95+	1.6	51	51-52	2.8
20	20-95+	1.6	51	53-95+	2.9
21	21-95+	1.6	52	52-56	2.9
22	22-95+	1.7	52	52-95+	3
23	23-95+	1.7	53	53-55	2.9
24	24-95+	1.7	53	56-60	3
25	25-95+	1.7	53	61-95+	3.1
26	26-95+	1.8	54	54-58	3
27	27-95+	1.8	54	59-95+	3.1
28	28-95+	1.8	55	55-57	3.1
29	29-95+	1.8	55	58-62	3.2
30	30-95+	1.9	55	63-95+	3.3
31	31-95+	1.9	56	56-60	3.2
32	32-95+	1.9	56	61-95+	3.3
33	33-95+	1.9	57	57-58	3.3
34	34-95+	2	57	59-63	3.4
35	35-95+	2	57	64-95+	3.5
36	36-95+	2	58	58-61	3.4

58	62-95+	3.5	68	76-95+	4.3
59	59-60	3.5	69	69-70	4.1
59	61-64	3.6	69	71-73	4.2
59	62-95+	3.8	69	74-77	4.3
56	62-95+	3.8	69	78-95+	4.4
57	57-58	3.3	70	70-72	4.2
57	59-63	3.4	70	73-75	4.3
57	64-95+	3.5	70	76-78	4.4
58	58-61	3.4	70	79-95+	4.5
58	62-95+	3.5	71	71	4.2
59	59-60	3.5	71	72-73	4.3
59	61-64	3.6	71	74-76	4.4
59	65-95+	3.7	71	77-79	4.5
60	60-62	3.6	71	80-95+	4.6
60	63-95+	3.7	72	72	4.3
61	61	3.6	72	73-74	4.4
61	62-66	3.7	72	75-77	4.5
61	67-95+	3.8	72	78-80	4.6
62	62-64	3.7	72	81-95+	4.7
62	65-95+	3.8	73	73	4.4
63	63	3.7	73	74-75	4.5
63	64-68	3.8	73	76-77	4.6
63	69-95+	3.9	73	78-80	4.7
64	64-66	3.8	73	81-83	4.8
64	67-71	3.9	73	84-95+	4.9
64	72-95+	4	74	74	4.5
65	65	3.8	74	75-76	4.6
65	66-69	3.9	74	77-78	4.7
65	70-95+	4	74	79-80	4.8
66	66-67	3.9	74	81-83	4.9
66	68-71	4	74	84-95+	5
66	72-95+	4.1	75	75	4.6
67	67-70	4	75	76	4.7
67	71-74	4.1	75	77-78	4.8
67	75-95+	4.2	75	79-80	4.9
68	68	4	75	81-83	5
68	69-72	4.1	75	84-86	5.1
68	73-75	4.2	75	87-95+	5.2

76	76-77	4.8	80	87	5.9
76	78-79	4.9	80	88-89	6
76	80	5	80	90-91	6.1
76	81-82	5.1	80	92-94	6.2
76	83-85	5.2	80	95+	6.3
76	86-88	5.3	81	81	5.6
76	89-95+	5.4	81	82-83	5.7
77	77	4.9	81	84	5.8
77	78-79	5	81	85	5.9
77	80	5.1	81	86	6
77	81-82	5.2	81	87	6.1
77	83-84	5.3	81	88-89	6.2
77	85-86	5.4	81	90-91	6.3
77	87-90	5.5	81	92-93	6.4
77	91-95+	5.6	81	94-95+	6.5
78	78	5	82	82	5.8
78	79	5.1	82	83	5.9
78	80	5.2	82	84	6
78	81-82	5.3	82	85	6.1
78	83-84	5.4	82	86-87	6.2
78	85	5.5	82	88	6.3
78	86-88	5.6	82	89	6.4
78	89-91	5.7	82	90-91	6.5
78	92-95+	5.8	82	92	6.6
79	79	5.2	82	93-95+	6.7
79	80	5.3	82	95+	7.2
79	81-82	5.4	82	93-94	7.1
79	83	5.5	83	83	6
79	84-85	5.6	83	84	6.1
79	86	5.7	83	85	6.2
79	87-89	5.8	83	86	6.3
79	90-91	5.9	83	87	6.4
79	92-95+	6	83	88	6.5
80	80	5.4	83	89	6.6
80	81-82	5.5	83	90	6.7
80	83	5.6	83	91-92	6.8
80	84	5.7	83	93	6.9
80	85-86	5.8	83	94-95+	7

Procedure for Calculating Suggested Deferred Gift Annuity Rates

For New York and New Jersey see below

1. Determine the annuity starting date, which is:
   - One year before the first payment, if payments are made annually;
   - Six months before the first payment, if payments are made semi-annually;
   - Three months before the first payment, if payments are made quarterly;
   - One month before the first payment, if payments are made monthly.
2. Determine the number of whole and fractional years from the date of the contribution to the annuity starting date (the deferral period).
3. Express the fractional year as a decimal of four numbers.
4. For a deferral period of any length, use the following formula to determine the compound interest factor:

   F = 1.0325 d, where F is the compound interest factor and d is the deferral period

Example: If the period between the contribution date and the annuity starting date is 10.25 years, the compound interest factor would be $1.0325^{10.25}$ = 1.387948.

5. Multiply the compound interest factor (F) by the immediate gift annuity rate for the nearest age or ages of a person or persons at the annuity starting date.

Example: If the sole annuitant will be nearest age 65 on the annuity starting date and the compound interest factor is 1.387948, the deferred gift annuity rate would be 1.387948 times 4.7%, or 6.5% (rounded to the nearest tenth of a percent).

Note to Charities Issuing Deferred Gift Annuities in New York and New Jersey

New York and New Jersey are the two states known at this time that may require different interest factors for deferred gift annuities with longer deferral periods.

1. **New York**: Under section 103.5 of 11 NYCRR 103 (Insurance Regulation 213), interest rates for New York single premium deferred annuities are issued quarterly. The rates are found on the New York Department of Financial Services' website under the “Present Value of Immediate Annuities” link. The applicable rate depends on the age and gender of the annuitant and is calculated by dividing the corresponding "Maximum Income" for the age and gender of the annuitant by 10. (Ex. The 2022 QI Maximum Income factor for a 35 year old male is 29.37/10=2.93%).

   It should be noted that there is a bill in the New York State Assembly that would change how practitioners would calculate the current rate. The proposed bill would amend subsection (a) of Section 1110 of the New York State Insurance Law. The amendment would calculate (i) the rate as of July 1st of the current year by adding two percent to the applicable ten year treasury bond yield as of April 13th of the current year, rounded to the nearest 0.025%, and (ii) the rate as of January 1st of the next year by adding two percent to the applicable ten year treasury bond yield as of October 31st of the current year, rounded to the nearest 0.25%.

2. **New Jersey**: Under New Jersey Administrative Code § 11:4-8.5(d), "[t]he Commissioner shall waive the requirement for a demonstration from the special permit holder that the rates meet the requirements of § 11:4-8.5(a) if the special permit holder uses the rates of the American Council on Gift Annuities and these rates meet the requirements of § 11:4-8.5(a)."

   § 11:4-8.5(a) states "[t]he original consideration for periodic payments payable to the holder of a charitable annuity may not be less than the single premium, computed according to interest and mortality assumptions permitted by N.J.S.A. § 17B:19-1 et seq. for guaranteed periodic payments, plus a life insurance net single premium, computed according to the same assumptions for an amount of death benefit equal to one-half of such original consideration. For this purpose the original consideration shall include the gross amount paid by the annuitant to the special permit holder in order to provide the annuity payments and residue."

2022

JANUARY

Su	Mo	Tu	We	Th	Fr	Sa
26	27	28	29	30	31	1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31	1	2	3	4	5

FEBRUARY

Su	Mo	Tu	We	Th	Fr	Sa
30	31	1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	1	2	3	4	5
6	7	8	9	10	11	12

MARCH

Su	Mo	Tu	We	Th	Fr	Sa
27	28	1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31	1	2
3	4	5	6	7	8	9

APRIL

Su	Mo	Tu	We	Th	Fr	Sa
27	28	29	30	31	1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
1	2	3	4	5	6	7

MAY

Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31	1	2	3	4
5	6	7	8	9	10	11

JUNE

Su	Mo	Tu	We	Th	Fr	Sa
29	30	31	1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	1	2
3	4	5	6	7	8	9

JULY

Su	Mo	Tu	We	Th	Fr	Sa
26	27	28	29	30	1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31	1	2	3	4	5	6

AUGUST

Su	Mo	Tu	We	Th	Fr	Sa
31	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31	1	2	3
4	5	6	7	8	9	10

SEPTEMBER

Su	Mo	Tu	We	Th	Fr	Sa
28	29	30	31	1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	1
2	3	4	5	6	7	8

OCTOBER

Su	Mo	Tu	We	Th	Fr	Sa
25	26	27	28	29	30	1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31	1	2	3	4	5

NOVEMBER

Su	Mo	Tu	We	Th	Fr	Sa
30	31	1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	1	2	3
4	5	6	7	8	9	10

DECEMBER

Su	Mo	Tu	We	Th	Fr	Sa
27	28	29	30	1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31
1	2	3	4	5	6	7

2023

JANUARY

Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31	1	2	3	4
5	6	7	8	9	10	11

FEBRUARY

Su	Mo	Tu	We	Th	Fr	Sa
29	30	31	1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	1	2	3	4
5	6	7	8	9	10	11

MARCH

Su	Mo	Tu	We	Th	Fr	Sa
26	27	28	1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	1
2	3	4	5	6	7	8

APRIL

Su	Mo	Tu	We	Th	Fr	Sa
26	27	28	29	30	31	1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	1	2	3	4	5	6

MAY

Su	Mo	Tu	We	Th	Fr	Sa
30	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31	1	2	3
4	5	6	7	8	9	10

JUNE

Su	Mo	Tu	We	Th	Fr	Sa
28	29	30	31	1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	1
2	3	4	5	6	7	8

JULY

Su	Mo	Tu	We	Th	Fr	Sa
25	26	27	28	29	30	1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31	1	2	3	4	5

AUGUST

Su	Mo	Tu	We	Th	Fr	Sa
30	31	1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31	1	2
3	4	5	6	7	8	9

SEPTEMBER

Su	Mo	Tu	We	Th	Fr	Sa
27	28	29	30	31	1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
1	2	3	4	5	6	7

OCTOBER

Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31	1	2	3	4
5	6	7	8	9	10	11

NOVEMBER

Su	Mo	Tu	We	Th	Fr	Sa
29	30	31	1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	1	2
3	4	5	6	7	8	9

DECEMBER

Su	Mo	Tu	We	Th	Fr	Sa
26	27	28	29	30	1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31	1	2	3	4	5	6