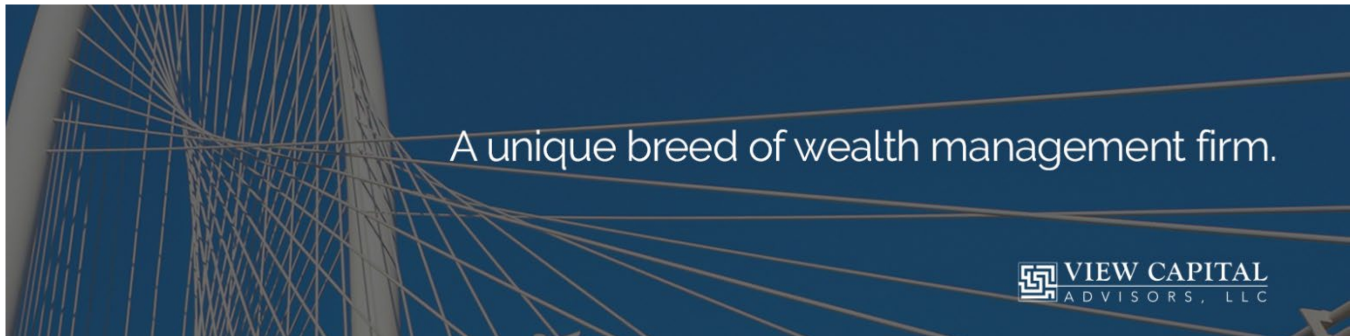
Panorama

July 2024 ISSUE 52

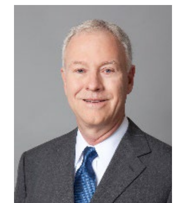


Contributing to this issue:

R. Craig Brubaker

2727 N Harwood, Suite 225

Dallas, TX 75201



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Inherited IRA Final Regulations

This commentary addresses recently issued Final Regulations from the IRS about distribution requirements from inherited IRAs. As a refresher on this subject, the SECURE Act passed in 2019 had significantly shortened the period to 10 years that a beneficiary of an inherited IRA had to fully withdraw those funds and pay the associated income tax. Failure to withdraw the minimum required distribution of funds from the inherited IRA and pay tax will cause significant penalties to apply to the inherited IRA beneficiary for failing to take the required minimum distribution (RMD).

Confusion resulted when the IRS created a distinction on timing of required distributions after the 2020 effective date of this SECURE Act provision. The initial communication from the IRS was that the beneficiary must fully withdraw all inherited IRA funds by the last day of the 10th year following the year of the original IRA owner's death. The consensus understanding was that a beneficiary could defer until the last possible date to withdraw all the funds and pay tax. Later, the IRS communicated the following distinction. The IRS stated that if the original IRA owner had died while taking their RMDs,

then the inheriting beneficiary must continue taking distributions beginning in the year following the year of death at least as rapidly as the IRA owner. However, if the IRA owner was not of RMD age at the time of death and had not begun taking distributions, then their beneficiary need not withdraw any taxable distributions until the last day of the 10th year. Confusion resulted because this revised IRS position was released well after affected beneficiaries had already intentionally missed RMDs in 2021 due to their original understanding.

The IRS acknowledged that clarification was needed and provided some transition relief to affected taxpayers such that the failure to withdraw penalty would not apply until a future specified date. In a recent Panorama newsletter, we advised of the two IRS notices (Notice 2022-53 and Notice 2023-54) that waived application of the failure to withdraw penalty in tax years 2021 to 2023 for failure to take beneficiary RMDs until final guidance was issued by the IRS. That guidance is now available through Final Treasury Regulations that will become effective as of Jan. 1, 2025.

There is no harm for an IRA beneficiary having taken taxable distributions from the inherited IRA during the above noted transition period, other than having to pay the associated tax. Prior to release of the Final Regulations, the IRS issued Notice 2024-35, which again extends the transition period for penalty waivers to 2025. To be clear, no penalties will be applied for failure to withdraw RMDs by beneficiaries of inherited IRAs for tax years 2021 to 2024.

The Final Regulations largely adopted the Proposed Regulations on this subject. To summarize, the inherited IRA beneficiary must still fully withdraw all funds from the inherited IRA by the end of the 10th year following the year the original IRA owner died. The transition relief period referenced above does not change or extend the 10-year withdrawal limit. The key inquiry for an IRA beneficiary of an inherited IRA is whether the original IRA owner was subject to RMDs due to their age at death. If so, the beneficiary must take distributions each year starting in 2025 and must fully deplete the IRA within 10 years from the year of the IRA owner's death.

If the original IRA owner was not subject to RMDs because they had not attained RMD age at the time of death, then their beneficiary may, but is not required, to take any annual distributions until the last day of the 10th year following the year of the IRA owner's death.

Paying tax later as opposed to sooner always sounds like a no-brainer. However, there may be tax planning reasons for you to take distributions sooner than required under this rule to minimize the tax bite associated with inheriting this type of asset from a loved one. So be sure to consult with your personal tax advisor regarding the distribution strategy that avoids penalties and minimizes your personal tax bill.

IRS Tax Relief for Texas Storms

The Internal Revenue Service announced tax relief for individuals and businesses in certain Texas counties that were affected by severe storms, straight-line winds, tornadoes, and flooding that began on April 26, 2024. These taxpayers now have until Nov. 1, 2024, to file various federal individual and business tax returns, and make tax payments.

Following the disaster declaration issued by FEMA, taxpayers residing in Anderson, Austin, Bailey, Baylor, Bell, Blanco, Bosque, Brown, Caldwell, Calhoun, Cass, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Concho, Cooke, Coryell, Dallas, Delta, Denton, Eastland, Ellis, Falls, Fannin, Freestone, Gonzales, Grimes, Guadalupe, Hamilton, Hardin, Harris, Hays, Henderson, Hill, Hockley, Hopkins, Houston, Jasper, Jones, Kaufman, Lamar, Lampasas, Lee, Leon, Liberty, Limestone, Lynn, Madison, McCulloch, Morris, Milam, Mills, Montague, Montgomery, Navarro, Newton, Panola, Polk, Rockwall, Rains, Robertson, Rusk, Smith, San Augustine, San Jacinto, San Saba, Shelby, Smith, Sterling, Terrell, Titus, Trinity, Tyler, Van Zandt, Walker, Waller, and Washington counties are entitled to the 2024 tax filing relief described below.

The relief postpones various tax filing and payment deadlines that were originally due on or after April 26, 2024, and before Nov. 1, 2024. As a result, affected individuals and businesses will have until Nov. 1, 2024, to file returns and pay any taxes that were originally due during this period. This includes 2024 quarterly estimated tax payments due on June 17, 2024, and Sept. 16, 2024; quarterly payroll and excise tax returns normally due on April 30, 2024, July 31, 2024, and Oct. 31, 2024. In addition, penalties on payroll and excise tax deposits due on or after April 26, 2024, and before May 13, 2024, will be abated if the tax deposits were made by May 13, 2024.

The tax return filing relief applies to most tax returns including individual, corporate, and estate and trust income tax returns; partnership returns, S corporation returns, and trust returns; estate, gift and generation-skipping transfer tax returns; annual information returns of tax-exempt organizations; and employment and certain excise tax returns. These returns are granted additional time to file through Nov. 1, 2024.

Corporate Transparency Act Update

In our last Panorama newsletter, we advised of a successful federal court challenge of the Corporate Transparency Act (CTA) in the Northern District of Alabama by the National Small Business Association. As expected, the government has appealed this decision to the U.S. Court of Appeals for the Eleventh Circuit. Briefs are being filed in that appeal, and oral argument is scheduled for the week of Sept. 16, 2024. Having the appellate decision by 2024 is possible but unlikely. Also noteworthy is that

several copycat cases have been filed in federal courts in Ohio, Maine, and Michigan. None of these cases have advanced to the level of a trial court decision at the time of this newsletter.

Despite these continuing contests on the constitutionality of the CTA, the financial, legal, and accounting firm communities are still advising their clients to move forward with the required 2024 beneficial ownership filings for affected entities established before 2024. There are still five months remaining in 2024 for the filing deadline, so if you have not already done your filings, you should begin to finalize your 2024 action plan within the next couple of months.

We also observed in our last Panorama newsletter that CPA firms and small law firms were initially not inclined to take on the beneficial ownership reporting task for their clients. We have seen some softening of that view in the past few months. As affected individuals and their advisors have had time to absorb the scope of the beneficial ownership reporting requirements, we have seen a change in attitude, including some individuals who plan on doing the online filing themselves. There is no cost to doing the filing with FinCEN, other than the time necessary to gather the required information, secure a FinCEN ID, and complete the online filing process.

Also note that each reporting entity (such as an LLC, Limited Partnership, or Corporation) must have an Employer Identification Number (EIN). It is not uncommon for single member LLCs to not have secured a separate EIN from the sole member's tax ID. If this is your case, you will need to apply for an EIN beforehand for any reporting entity that must file.

As a reminder, trusts are entities that do not have beneficial ownership reporting responsibilities because they are not required to receive any certification from the state of organization to create a trust. However, if the trust happens to own shares or interests in a reporting company like a limited partnership or a corporation, then the trust needs to determine if it has any responsibilities regarding the reporting company's filing obligations.

We will continue to provide updates on beneficial ownership reporting responsibilities under the CTA. We recommend that if you haven't already filed any required reports, that you begin to gather the information needed to complete the filings before the end of 2024.

Supreme Court Decision May Affect Wealth Tax

On June 20, the U.S. Supreme Court issued a 7 — 2 decision in *Moore v. United States*, upholding the constitutionality of the Mandatory Repatriation Tax (MRT) under the 2017 Tax Cuts and Jobs Act. Writing for the court, Justice Brett Kavanaugh said Congress has the constitutional power to tax people and companies on their share of undistributed corporate income, at least when it comes to so-called

pass-through businesses. The *Moore* decision is one that high-net-worth individuals and their advisors should not ignore.

The purpose of the MRT was to offset the costs of other parts of a Republican-backed tax cut passed during Donald Trump's presidency. This provision was primarily targeted at large multinational companies who earn significant foreign profits outside the reach of U.S. taxation simply by leaving those profits offshore. The government estimated that this repatriation tax would bring in $340 billion over 10 years following the passage from almost 400 multinational companies.

At issue in the Moore case was the impact of the 2017 MRT provision on their personal tax liability. The Moores are individuals and contended that the 2017 MRT provision improperly taxed them on corporate income that was never distributed to them. The Moores were fighting a $14,729 tax bill stemming from a minority stake they held in a U.S. owned foreign company. Specifically, they argued they were being taxed on income that was never distributed to them. The MRT had modified U.S. tax rules to allow income earned by the foreign entity to be "attributed" to them and thus be taxable to them despite never having been distributed to them. The Moores' challenged the MRT as an unconstitutional direct tax.

The decision in the Moore case focused narrowly on the constitutionality of the MRT as an income tax. The majority opinion held that the MRT doesn't exceed Congress' constitutional authority. The decision emphasized that the MRT taxes "realized" income — specifically, the income realized by the foreign company, which is attributed to its American shareholders under Subpart F of the Internal Revenue Code.

Two conservative justices dissented (Thomas and Gorsuch) and two other conservative justices (Barrett and Alito) were in the majority but did not join Kavanaugh's reasoning. The Moore decision, while narrow, opens the door to significant discussions about a wealth tax. One of the key elements of the decision is its interpretation of income and the realization requirement. By affirming that the MRT taxes realized income that's attributed to shareholders, the Court upheld Congress's power to tax undistributed corporate income as being realized (and therefore taxable) by shareholders.

The Moore ruling sets the stage for a potential shift in how any wealth tax is approached in the United States, especially in an election year. With one party potentially gaining control of the House, Senate, and White House, the possibility of passing significant tax legislation, including a wealth tax, becomes more feasible. The government's need to generate revenue to address budget deficits and fund public programs is a significant motivation. Now that the Supreme Court has accepted the rationale of having the cash in hand to pay tax is no longer a prerequisite to taxation, a wealth tax could provide a substantial source of revenue by targeting the unrealized gains and accumulated wealth of affluent individuals.

The case was being closely watched because of its potential implications for Democratic proposals to impose a wealth tax. If nothing else, the ruling reaffirms Congress's broad taxing authority but leaves open significant questions about the future of wealth taxation in the United States.

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For further information, please contact your investment representative or one of our wealth planning specialists:

R. Craig Brubaker 214-855-2556 cbrubaker@view-cap.com

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