The COMMITTEE
of
ANNUITY
INSURERS

1455 Pennsylvania Avenue NW, Suite 1200, Washington, DC 20004
(202) 347-2230 | www.annuity-insurers.org

May 30, 2025

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Internal Revenue Service
Attn: CC:PA:01:PR (Notice 2025-19) Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

Re: Committee of Annuity Insurers' Recommendations for 2025-2026 Priority Guidance Plan

To whom it may concern:

We are writing on behalf of the Committee of Annuity Insurers (the "**Committee**") in response to Notice 2025-19, which invites public recommendations for the 2025-2026 Priority Guidance Plan ("**PGP**").[1] We appreciate this opportunity to comment. The Notice list several factors that IRS/Treasury will consider when assessing public recommendations. These include whether the recommendation will advance the Administration's laudable goals of reducing regulatory burdens, promoting sound tax administration, and ensuring that regulations are based on the best reading of the underlying statute. For the reasons discussed throughout this letter, our recommendations are consistent with these and other relevant factors from the Notice. Our recommendations fall within the following categories, which we elaborate upon below:

(1) Constructive Receipt and Annuities. The last two PGPs included an item for guidance under section 72 on the application of the constructive receipt doctrine to annuity contracts.[2] We recommend removing this guidance item and not carrying it over to the 2025-2026 PGP, as it would likely run counter to congressional intent, increase controversy and burdens on taxpayers and the IRS, and otherwise have a significantly adverse and disruptive effect on Americans trying to prepare themselves for retirement.

(2) Required Minimum Distributions. The SECURE Act of 2019 ("**SECURE 1.0**") and the SECURE 2.0 Act of 2022 ("**SECURE 2.0**") made various changes to the required minimum distribution ("**RMD**") rules that apply to qualified plans and IRAs. We recommend a number of changes to the final and proposed regulations that IRS/Treasury have published on

[1] The Committee is a coalition of life insurance companies formed in 1981 to participate in the development of federal policy with respect to tax, securities, ERISA, and other regulatory issues affecting annuities. The Committee's current 32 member companies represent approximately 80% of the annuity business in the United States. A list of the Committee's member companies is attached.

[2] Unless otherwise indicated, "section" means a section of the Internal Revenue Code of 1986, as amended (the "**Code**").

these rules, including eliminating certain questionable interpretations adopted therein that do not represent the best reading of the underlying statute.

(3) IRA Model Forms, Model Language, and Prototype Approvals. We request prompt publication of updated model forms and listings of required modifications ("**LRMs**") for IRAs that reflect SECURE 1.0 and SECURE 2.0, as well as the prompt re-opening of the IRS prototype approval program for IRAs. We also urge IRS/Treasury to announce an additional one-year delay in the deadline for IRA providers to update their IRA documents for these statutory changes. All of these requests will reduce burdens on taxpayers and promote sound tax administration.

(4) Name/TIN Matching Program. We request that IRS/Treasury expand the current Name/TIN Matching Program so that it is available for all information returns requiring the reporting of names and TINs, including the Form 1099-R. Such an expansion would promote sound tax administration, reduce burdens, and eliminate wasteful uses of resources for the IRS and taxpayers alike. IRS/Treasury already possess the statutory authority to expand this program, and any contrary concerns do not reflect the best reading of the underlying statutory rules.

(5) Other SECURE 2.0 Guidance. We request guidance (1) on changes that SECURE 2.0 made to the rules for "substantially equal periodic payments" from retirement plans, IRAs, and annuities, and (2) implementing the directive in SECURE 2.0 for IRS/Treasury to expand the Employee Plans Compliance Resolution System ("**EPCRS**") to IRAs. Such guidance would fulfill congressional intent and reduce burdens on taxpayers.

The Committee previously submitted several letters to IRS/Treasury on most of these topics, along with other topics for which guidance is still needed. We continue to urge IRS/Treasury to act on our prior comments, which are listed in the footnote below.[3] The remainder of this letter focuses on the selected items listed above, which we believe are particularly urgent and strongly implicate the factors described in Notice 2025-19.

1. Remove the Constructive Receipt Guidance Item from the PGP

The last two versions of the PGP have included an item regarding "Guidance under § 72 on the application of the doctrine of constructive receipt to annuity contracts." The Committee has serious concerns about the nature and scope of this project. Any guidance applying the constructive receipt doctrine to non-qualified annuity contracts would likely run counter to congressional intent,

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[3] *See* letter dated January 31, 2023, requesting guidance and relief regarding SECURE 2.0; letter dated July 21, 2023, requesting guidance on certain additional issues under SECURE 2.0 ("**Supplemental 2.0 Guidance Letter**"); letter dated May 25, 2022, commenting on the proposed RMD regulations issued that year ("**2022 RMD Comment Letter**"); letter dated September 17, 2024, commenting on the final and proposed RMD regulations issued that year (**"2024 RMD Comment Letter"**); letter dated October 7, 2024, commenting on Notice 2024-55 regarding sections 115 and 314 of SECURE 2.0 (**"Notice 2024-55 Letter"**); and letter dated October 18, 2024, responding to IRS/Treasury questions during our testimony at the hearing for the 2024 RMD regulations ("**2024 RMD Hearing Letter**"). These letters are available on the Committee's website at https://www.annuity-insurers.org/news-memoranda/.

increase controversy and burdens on taxpayers and the IRS, and otherwise have a significantly adverse and disruptive effect for Americans trying to prepare themselves for retirement.[4]

Guidance request: The Committee requests that IRS/Treasury remove this guidance item from the current PGP and not carry it over to the 2025-2026 PGP. The guidance item runs counter to the factors identified in Notice 2025-19 that IRS/Treasury will consider in assessing whether projects should be on the PGP. In particular –

- Guidance applying the constructive receipt doctrine to non-qualified annuities would not be based on the best reading of the underlying statutory authority. In that regard:
  - It has been well settled for more than 40 years that the comprehensive rules in section 72 precludes the constructive receipt doctrine from applying to the inside buildup of an annuity contract. Congress has carefully crafted section 72 and the other statutory rules governing the federal income tax treatment of non-qualified annuities to encourage their use for retirement savings and retirement income.
  - Based on those statutory rules, their clear congressional intent,[5] judicial precedent,[6] IRS guidance and litigation positions,[7] and Treasury reports and proposals,[8] amounts credited

[4] Our references to "non-qualified" annuity contracts mean annuity contracts that are not issued in connection with a "qualified retirement plan" as defined in section 4974(c).

[5] *See*, *e.g.*, Staffs of the Senate Fin. and Jt. Comm. on Tax'n, *Major Issues in the Taxation of Life Insurance Products, Policyholders*, JCT-48-83 (1983) ("[a]nnuity contracts have also been permitted tax-free accumulations; however, these accumulations have been taxable when [withdrawn]."); S. Rep. No. 97-494, at 349 ("Present law provides that taxation of interest or other current earnings on a policyholder's investment in an annuity contract generally is deferred until annuity payments are received or amounts characterized as income are withdrawn (secs. 72(a) and (e))."); Staff of the Jt. Comm. on Tax'n, *General Explanation of the Revenue Provisions of the Tax Equity and Fiscal Responsibility Act of 1982*, at 361 (1982) (same as S. Rep. No. 97-494, and adding that "Congress believed that the use of deferred annuity contracts to meet long-term investment and retirement goals, such as income security, was still a worthy ideal.").

[6] *See*, *e.g.*, *Cohen v. Comm'r*, 39 T.C. 1055 (1963); *Nesbitt v. Comm'r*, 43 T.C. 629 (1965); *Estate of Hales v. Comm'r*, 40 B.T.A. 1245 (1939) (each supporting the fact that earnings associated with property are not constructively received if the owner has to give up some or all of his interest in the property, *e.g.*, surrender or partially surrender an annuity contract, to obtain those earnings).

[7] *See*, *e.g.*, GCM 38934 (Dec. 8, 1982) ("the comprehensive rules of section 72 preclude the application of the doctrine of constructive receipt to the cash values, including the interest increments thereon, under such policy prior to any actual surrender."); *Cohen v. Comm'r*, 39 T.C. 1055 (1963) (the IRS contended that the "constructive receipt doctrine has no application since the import of section 72(e) … is that the cash surrender value and interest on deposited dividends are deemed received in the year of the sale, surrender, or redemption and are to be taxed upon the occurrence of any of these events.").

[8] *See*, *e.g.*, U.S. Treasury Dep't, *Report to the Congress on the Taxation of Life Insurance Company Products* (1990) ("tax exemption and deferral provided to life insurance and annuity products generally does not result from the application of overall tax principles, but rather from exceptions to those principles."); U.S. Treasury Dep't, *The President's Tax Proposals to the Congress for Fairness, Growth, and Simplicity* 259-60 (1985) (proposing a *change in law* that would treat owners of deferred fixed annuity contracts as being in constructive receipt of their contracts' cash values); U.S. Treasury Dep't, *Tax Reform for Fairness, Simplicity, and Economic Growth* (1984) (challenging the tax treatment of life insurance companies and their products because they received "special treatment" under the Code).

to an annuity contract are not taxed until they are (1) actually received, (2) expressly treated as received under section 72, or (3) due and payable under the terms of the contract. The authorities leading to this conclusion represent the best reading of the underlying statutory authority.

- Any guidance in which IRS/Treasury were to apply the constructive receipt doctrine to annuity contracts unilaterally and without a clear congressional mandate would thwart the will of Congress to promote and incentivize the use of such contracts to help working Americans achieve financial security in retirement.[9] Such a drastic change in tax policy is not authorized by any clear statutory authority.

- Guidance applying the constructive receipt doctrine to annuity contracts would *create*, rather than resolve, significant issues relevant to a broad class of taxpayers. It would create widespread uncertainty for the IRS, annuity issuers, policyholders, and beneficiaries about when amounts under deferred and payout annuities are taxable.

- Guidance applying the constructive receipt doctrine to annuity contracts would *increase* controversy and burdens on taxpayers and the IRS and would not promote sound tax administration.

  - For many decades, insurers and advisors have operated with the understanding that the constructive receipt doctrine does not apply to annuity contracts and that, instead, section 72 applies to determine the timing and taxation of amounts held under such contracts. Insurers and advisors have applied this understanding in designing annuity contracts and building systems and procedures for administering the federal income tax treatment of annuity contracts - including the insurers' withholding and information reporting obligations with respect to such contracts.

  - If the doctrine applies to annuity contracts, the outcome in any particular case presumably would turn on the absence or presence of substantial limitations or restrictions and/or the forfeiture of valuable rights to access cash values.[10] Such a landscape for annuity taxation could lead to wildly unpredictable and inconsistent results for taxpayers and the

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[9] The current, longstanding tax treatment of non-qualified annuities has made them a success story in helping Americans prepare for and live in retirement. Tax deferral on earnings is a strong motivation for purchasing non-qualified annuities; about seven in 10 owners say this feature has allowed them to set aside more retirement savings. More than eight in 10 owners say they plan to use their non-qualified annuity savings for retirement income. Non-qualified annuities also are an important source of guaranteed lifetime income in retirement; almost all owners (84%) say the ability to "get payments guaranteed to continue as long as you live" was an important reason they purchased their annuity. More than one-third of owners of non-qualified annuities have never participated in an employment-based retirement plan; for them, non-qualified annuities are a particularly important part of their retirement planning. *See* The Committee of Annuity Insurers, *Survey of Owners of Individual Annuity Contracts* (The Gallup Organization and Mathew Greenwald & Associates, 2022), *available at* https://www.annuity-insurers.org/wp-content/uploads/2023/07/Gallup-Survey-of-Owners-of-Individual-Annuity-Contracts-2022.pdf.

[10] Treas. Reg. section 1.451-2(a) (income is not constructively received if the taxpayer's control of its receipt is subject to "substantial limitations or restrictions."). *See also* Rev. Rul. 80-300, 1980-2 C.B. 165, and Rev. Rul. 82-121, 1982-1 C.B. 79 (forfeiture of a valuable right constitutes a substantial limitation that precludes the constructive receipt of income).

IRS. It is highly questionable whether the IRS could administer the application of the constructive receipt doctrine to annuity contracts on a uniform and fair basis.

- Taxpayers also could argue that the doctrine resulted in amounts being includible in gross income for tax years that have since been closed by the statute of limitations, which is an argument that taxpayers made, the IRS opposed, and the Tax Court rejected more than 60 years ago but would gain new traction if the IRS were to conclude that the doctrine applies to annuity contracts.[11]

For these and other reasons, the Committee requests that IRS/Treasury remove the guidance project from the current PGP and not carry it over to the 2025-2026 PGP.

2. Required Minimum Distributions

SECURE 1.0 and SECURE 2.0 made numerous changes to the RMD rules that apply to qualified plans and IRAs under section 401(a)(9) and related sections. In February 2022, IRS/Treasury published proposed regulations reflecting the SECURE 1.0 changes.[12] In July 2024, IRS/Treasury published proposed and final regulations relating to the SECURE 1.0 and SECURE 2.0 changes.[13] The Committee filed extensive comments on all of these proposed and final regulations.[14] Because the 2024 proposed regulations have not been finalized, we respectfully reiterate our comments from our 2024 RMD Comment Letter and 2024 RMD Hearing Letter and ask IRS/Treasury to reflect those comments in the final regulations. We also would like to highlight the following points from our prior comments, each of which implicates the factors from Notice 2025-19 emphasizing statutory interpretation, sound tax administration, deregulation, and reduction of unnecessary burdens.

(a) Unwind the incorrect and controversial interpretation of the 10-Year Rule

The 2024 final RMD regulations retained and finalized a controversial interpretation from the 2022 proposed regulations regarding how SECURE 1.0 changed the after-death RMD rules. The final regulations provide that if an employee dies on or after their required beginning date ("**RBD**"), both the "at-least-as-rapidly" rule of section 401(a)(9)(B)(i) (the "**ALAR Rule**") *and* the 10-year rule of section 401(a)(9)(H)(i) apply to any designated beneficiary. This essentially establishes two versions of the same statutory 10-year rule in section 401(a)(9)(H)(i): a "**10-Year Deferral Rule**" and a "**10-Year Distribution Cap**." Under the IRS/Treasury interpretation, the 10-Year Deferral Rule applies only if the employee dies *before* their RBD and generally allows designated beneficiaries to defer distributions for up to 10 years. In contrast, the 10-Year Distribution Cap applies only if the employee dies *on or after* their RBD and generally requires designated beneficiaries to take RMDs each year after the employee's death, but also generally requires them to

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[11] *See Cohen v. Comm'r*, 39 T.C. 1055 (1963); *Nesbitt v. Comm'r*, 43 T.C. 629 (1965).

[12] 87 Fed. Reg. 10504 (Feb. 24, 2022).

[13] 89 Fed. Reg. 58886 (Jul. 19, 2024).

[14] See our 2022 RMD Comment Letter, 2024 RMD Comment Letter, and 2024 RMD Hearing Letter, *supra* note 3.

liquidate the entire account within 10 years of that death. As a result, under the IRS/Treasury interpretation the 10-Year Deferral Rule is not available if the employee died on or after their RBD.

Over 140 stakeholders filed comments on the 2022 proposed regulations, and almost all of them interpreted the relevant statutory provisions as applying the 10-Year Deferral Rule regardless of when an employee dies in relation to their RBD. The IRS effectively acknowledged the controversial nature of its contrary interpretation by providing interim relief for taxpayers who did not follow that interpretation for calendar years 2021-2024.[15] Despite the almost universally-held view of the private sector that the statutory 10-year rule is always a 10-Year Deferral Rule, IRS/Treasury stated that they "do not think that the commenters' interpretation is consistent with a plain reading of the statute."[16]

Guidance request: The Committee requests that IRS/Treasury (1) reverse the position they took in the 2024 final RMD regulations that both the ALAR Rule of section 401(a)(9)(B)(i) *and* the 10-year rule of section 401(a)(9)(H)(i) apply in cases where an employee dies on or after their RBD, and (2) adopt the widely-held contrary interpretation that section 401(a)(9)(H)(i) always provides a 10-Year Deferral Rule regardless of when the employee dies in relation to their RBD.

The interpretation that IRS/Treasury adopted in the final regulations does not reflect the best reading of the underlying statutory provision. This is clear from the fact that virtually all of the 140 stakeholders who commented on that interpretation said it was wrong. Moreover, this incorrect interpretation has unnecessarily injected an incredible amount of complexity into the RMD rules. Even the IRS has struggled to accurately describe in plain English how the new rules work under their interpretation, consistently misstating the rules in official documents such as Publication 590-B and LRMs issued for qualified plans. The IRS also has been unable to publish updated model language for IRAs or to re-open the IRA prototype approval program, in part due to the difficulty of crafting language to describe the RMD rules in a way that normal taxpayers can understand.

The rules would be much simpler to describe, understand, apply, and enforce if the widely-held contrary view were adopted. That view also reflects the best reading of the underlying statutory provisions, for reasons we articulated above and in our 2022 RMD Comment Letter.[17] We urge IRS/Treasury to unwind their controversial and incorrect interpretation and adopt the best reading of the statute.

(b) Eliminate the hypothetical RMD requirement

The 2024 final RMD regulations impose a new "hypothetical RMD" requirement on surviving spouses in some cases, even though the statute does not clearly authorize or even contemplate such a rule. This new rule applies if (1) the spouse is subject to the 10-Year Deferral Rule for death before the RBD (discussed above); (2) a distribution is made in or after the calendar year in which the spouse attains the "applicable age;" and (3) the spouse rolls over some or all of that distribution to their own plan or IRA. In such cases, the final regulations do not allow the spouse to

[15] *See*, *e.g.*, Notice 2024-35, 2024-19 I.R.B. 1051.

[16] 89 Fed. Reg. at 58,896.

[17] *See supra* note 3.

roll over the distribution to the extent that it is a "hypothetical RMD" determined under the regulations.[18]

Guidance request: The Committee requests that IRS/Treasury eliminate the hypothetical RMD rule. Our 2024 RMD Comment Letter discusses the reasons for eliminating this rule, the following of which directly implicate the factors listed in Notice 2025-19:

- The hypothetical RMD rule is not the best reading of the underlying statute, which does not clearly authorize or even contemplate such a rule. In fact, SECURE 1.0 evidences an intent to *retain* the existing rules for surviving spouses. Congress intended to change the rules for *non-spouse* beneficiaries who are significantly younger than the deceased employee.

- In cases where an employee died before their RBD, surviving spouses have always had the ability to defer distributions using the "5-year rule" of section 401(a)(9)(B)(ii) without it affecting their ability to roll distributions to their own IRA. The only difference now is that for defined contribution plans SECURE 1.0 changed section 401(a)(9)(B)(ii) to provide a 10-year rule rather than a 5-year rule. Otherwise, the statutory structure on this issue remains unchanged. If the statute before SECURE 1.0 did not limit spouses' abilities to roll distributions to their own IRAs, and SECURE 1.0 did not change the statute on this point, then the statute should continue to be interpreted as it always has been.

- The RMD rules are already extremely complex, especially as interpreted in the final regulations. The hypothetical RMD rule just makes this complexity worse, imposing significant economic consequences on taxpayers without a clear statutory mandate. This places unnecessary and substantial economic burdens on taxpayers.

(c) Clarify that the ALAR Rule never applies to in-plan designated Roth accounts

Pursuant to section 325 of SECURE 2.0, the lifetime RMD rules do not apply to any in-plan designated Roth account for taxable years beginning after 2023. Consistently with this change, the 2024 final RMD regulations provide that if an employee's *entire* interest in a qualified plan is held in a designated Roth account, then the employee's death is always deemed to occur before their RBD.[19] This means that the 10-Year Deferral Rule (described above) is always available to a designated beneficiary of such a designated Roth account, regardless of the timing of the employee's death in relation to their RBD.

The final regulations are less clear, however, whether this same treatment applies if the employee has only a *portion* of their interest in a designated Roth account, with the rest in a non-Roth account under the plan. At the 2024 public hearing on the RMD regulations, IRS/Treasury suggested that different treatment was intended in such cases, namely, the employee's Roth and non-Roth accounts must be aggregated and the same RMD rules must be applied to both, with the applicable rule determined by when the employee dies in relation to their RBD. Thus, for example, if the employee dies on or after their RBD, the ALAR Rule applies to their Roth account, requiring

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[18] Treas. Reg. section 1.402(c)-2(j)(4). Similar rules apply to IRAs if the spouse, rather than rolling over a distribution, elects to treat the decedent's IRA as their own. *See* Treas. Reg. section 1.408-8(c)(4).

[19] Treas. Reg. section 1.401(a)(9)-3(a)(2); Treas. Reg. section 1.403(b)-6(e)(3)(iii).

RMDs to continue each year, even though that rule would not apply if the employee had *only* a Roth account under the plan.

Guidance request: The Committee requests that IRS/Treasury clarify the final regulations to provide that designated Roth accounts are always subject to the RMD rules that apply to employees who die before their RBD, regardless of when the employee actually dies or retires and regardless of whether the employee also has any non-Roth accounts in the plan. The contrary interpretation that IRS/Treasury suggested during the public hearing does not reflect the best reading of the underlying statute and would be inconsistent with clear congressional intent, for the following reasons:

- The ALAR Rule, as stated in section 401(a)(9)(B)(i), requires distributions after an employee's death to be made "at least as rapidly as under the method of distributions being used under subparagraph (A)(ii) as of the date of his death." Subparagraph (A)(ii) sets forth the rule for RMDs during the employee's life, *but that rule no longer applies to designated Roth accounts*, pursuant to SECURE 2.0.[20] Thus, for any employee's designated Roth account, there is no longer any "method of distributions being used under subparagraph (A)(ii) as of the date of his death." If distributions from a designated Roth account must continue after an employee's death at least as rapidly as they were required to be made before their death, but no distributions were actually required before their death, then logic dictates that continuing to not make any distributions after the employee's death would satisfy the ALAR Rule. This outcome obviously would be wrong and illustrates why the regulations for Roth IRAs, which have never been subject to lifetime RMDs, have always deemed an IRA owner's death to occur *before* their RBD, even if the owner also has traditional IRAs to which the lifetime RMD rules apply.[21]

- Congress eliminated the pre-death RMD rules for in-plan Roth accounts as part of SECURE 2.0 in order to conform the treatment of such accounts to the longstanding treatment of Roth IRAs.[22] Doing so removes an incentive for plan participants to roll their designated Roth account balances out of their employer-sponsored plans into Roth IRAs merely to get the RMD treatment that applies to Roth IRAs. Despite this congressional goal of conformity, IRS/Treasury would retain this incentive for plan leakage if the regulations apply the ALAR Rule to designated Roth accounts. IRS/Treasury also would be interpreting virtually identical statutory language in sections 402A(d)(5) and 408A(c)(4) very differently by applying the ALAR Rule under the former but not the latter.

Based on the foregoing, the best reading of the underlying statute is that designated Roth accounts are always subject to the RMD rules that apply to employees who die before their RBD, regardless of when the employee actually dies or retires and regardless of whether the employee also

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[20] *See* section 402A(d)(5) (stating that neither section 401(a)(9)(A) nor the incidental death benefit requirements of section 401(a) apply to designated Roth accounts, effective starting in 2024).

[21] Treas. Reg. section 1.408A-6, Q&A-14(a) ("The post-death minimum distribution rules under section 401(a)(9)(B) that apply to traditional IRAs, *with the exception of the at-least-as-rapidly rule described in section 401(a)(9)(B)(i)*, also apply to Roth IRAs") (emphasis added); Treas. Reg. section 1.408A-6, Q&A-15 (section 401(a)(9) applies separately to traditional and Roth IRAs).

[22] *See*, *e.g.*, S. REP. NO. 117-142, at 95 (describing a predecessor bill to SECURE 2.0 and stating that the change to the pre-death RMD rules for designated Roth accounts was included because "[t]he Committee believes that it is appropriate to extend to designated Roth accounts *the exceptions that apply to Roth IRAs* from the pre-death minimum distribution rules and from the incidental death benefit requirements.") (emphasis added).

has any non-Roth accounts in the plan. We urge IRS/Treasury to issue guidance confirming this best reading.

(d) Interpret Optional Aggregation Rule for annuities consistently with the statute and congressional intent

Section 204 of SECURE 2.0 directed Treasury to amend the RMD regulations to provide that in cases where a portion of an individual's interest in a defined contribution plan (or a portion of their interest in all their IRAs) is annuitized, they can reduce their RMD for the remaining non-annuitized account balance by any excess of their annuity payments over what their RMD would have been if they had not annuitized. The 2024 final and proposed RMD regulations implement this directive as an "**Optional Aggregation Rule**."[23] The following aspects of how the regulations would apply the Optional Aggregation Rule warrant change or clarification in order to ensure consistency with the statutory language and congressional intent.

(i) <u>Mandated valuation method</u>

The Optional Aggregation Rule requires a determination of the "value" of the annuity that is in payout status. For this purpose, the 2024 proposed RMD regulations would *require* the use of the "gift tax method" under the Roth IRA conversion regulations when valuing the annuity, even though the statute refers very generally only to the term "value" without prescribing a particular valuation method. The Committee objects to any mandate on how to determine the value of an annuity contract.

Guidance request: The Committee requests that final regulations abandon the proposal that would require the gift tax method to be used when determining the "value" of an annuity contract for purposes of the Optional Aggregation Rule. In lieu of that proposal, final regulations should (1) adopt a principle-based rule under which the "value" would be equal to the present value of the future annuity payments determined using reasonable actuarial methods and assumptions, determined in good faith, and (2) confirm that the gift tax method is merely one method that can be used to satisfy the principle-based rule. In that regard, we note the following:

- Mandating the use of a particular valuation method for purposes of the Optional Aggregation Rule does not represent the best reading of the underlying statute. Nothing in SECURE 2.0 requires any particular valuation method; the provision refers only broadly to the "value" of the annuity. As a result, there is no clear statutory mandate to force taxpayers to use this and only this valuation method when others may be just as appropriate.

- No other provision of the RMD regulations mandates a particular valuation method for any type of asset. Even the Roth conversion regulations, from which the gift tax method is taken, do not impose such a mandate. They *permit* the gift tax method to be used but do not *require* its use, provided that any other valuation method captures the "full value of the contract."[24]

- The best reading of the underlying statutory rule here is that Congress meant the word "value" to mean "fair market value" as it does under the RMD rules, and the regulations

[23] Treas. Reg. section 1.401(a)(9)-5(a)(5)(iv).

[24] *See* Treas. Reg. section 1.408A-4, Q&A-14(b)(1)(i).

otherwise do not mandate only one method for determining that value. Instead, the RMD regulations and the Roth IRA conversion regulations permit any valuation method that captures the fair market value while identifying certain methods that will be deemed to do so.

(ii) Qualified plan distributed annuities

The final and proposed RMD regulations do not address whether the Optional Aggregation Rule is available with respect to a qualified plan that purchases an annuity contract for a participant or beneficiary and distributes the contract to that individual in-kind as a qualified plan distributed annuity ("**QPDA**").

Guidance request: The Committee requests guidance clarifying that, in the case of a QPDA, (1) the Optional Aggregation Rule can apply to the individual's remaining balance in the plan by taking into account the QPDA, and (2) when determining the RMD that must be paid from the non-annuitized balance in the plan, the plan can rely on information about the QPDA that the plan receives from the annuity issuer or from the individual participant, provided that the participant represents that they obtained the information from the annuity issuer or obtained it consistently with applicable standards.

In that regard, permitting plans to take QPDAs into account when applying the Optional Aggregation Rule would further advance the purpose of the new rule to encourage annuitization, as well as the broader goal in SECURE 2.0 to discourage plan leakage.[25] With respect to plan leakage, if a participant cannot get the benefit of the Optional Aggregation Rule when electing a QPDA, they may decide to roll their entire account balance from the plan into an IRA, annuitize a portion of that balance in the IRA, then apply the Optional Aggregation Rule to the remaining balance in the IRA. This should not be the only choice for participants whose plans offer QPDAs. They should be permitted to retain their non-annuitized account balances in the plan if they choose, without a penalty of losing the availability of the Optional Aggregation Rule.

(iii) Partial annuitization of a single IRA

The 2024 final RMD regulations provide that, for IRAs, the Optional Aggregation Rule is available if an individual owns an individual retirement annuity under section 408(b) along with one or more IRAs that have non-annuitized account balances.[26] This could be interpreted as limiting the Optional Aggregation Rule for IRAs to situations where an individual owns *multiple* IRAs and fully annuitizes one of them. This would mean the rule is not available where (1) an individual owns only one individual retirement annuity and partially annuitizes that one contract, or (2) an individual owns only one individual retirement account and annuitizes an annuity contract that is held within that account, with the payments being made directly to the individual.

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[25] *See, e.g.*, SECURE 2.0 § 327 (permitting spousal beneficiaries to determine RMDs using the Uniform Lifetime Table so that they do not need to roll their inherited benefits out of an employer plan into an IRA in order to get the benefit of that table); SECURE 2.0 § 202 (repealing the 25% account balance limit on QLAC premiums, which effectively required a participant to roll up to three times the amount of the desired premium from the plan in order to purchase a QLAC under an IRA).

[26] Treas. Reg. § 1.408-8(e)(1)(ii).

Guidance request: The Committee requests confirmation that the Optional Aggregation Rule can apply in situations where an individual owns only one IRA and either (1) the IRA is an individual retirement annuity under section 408(b) that the individual "partially annuitizes," or (2) the IRA is an individual retirement account under section 408(a) that, in turn, holds an annuity contract from which annuity payments are made to the individual in a manner that triggers the RMD rules for annuity payouts under Treasury Regulation section 1.401(a)(9)-6.

In both of these situations, the individual has annuitized a portion of their IRA account balance, such that Treas. Reg. section 1.401(a)(9)-6 applies to that portion while Treas. Reg. section 1.401(a)(9)-5 continues to apply to the remaining portion. This is no different than an individual annuitizing a portion of their account balance in a qualified plan while continuing to maintain a non-annuitized account within that same plan. There is no indication or suggestion in the statute or legislative history that Congress intended for the Optional Aggregation Rule to be available to plans but not IRAs in these situations. Accordingly, any contrary interpretation would not represent the best reading of the underlying statute.

(e) Interpret effective date of Spousal ULT rule consistently with the statute

Section 327 of SECURE 2.0 amended Code section 401(a)(9)(B)(iv) to permit surviving spouses to calculate their RMDs as beneficiaries using the Uniform Lifetime Table, rather than the Single Life Table (the "**Spousal ULT Rule**"). Section 327(c) of SECURE 2.0 provides that this Spousal ULT Rule "shall apply to calendar years beginning after December 31, 2023." The 2024 proposed RMD regulations would adopt a very narrow interpretation of this statutory effective date, permitting spouses to use the Spousal ULT Rule "only if the first year for which annual required minimum distributions to the surviving spouse must be made is 2024 or later."[27]

Guidance request: The Committee requests that final regulations modify the proposed "applicability date" of the Spousal ULT Rule so it is available to *all* surviving spouses starting in 2024, even if they were required to commence RMDs before 2024. The narrower interpretation reflected in the proposed regulations does not represent the best reading of the underlying statutory provision. The statute makes no reference to when a surviving spouse was required to commence RMDs; rather, it merely refers to the calendar year in which the rule will start applying. A plain and best reading of this statutory language is that the Spousal ULT Rule became available to *all* spouses starting in 2024, regardless of whether they commenced RMDs as a beneficiary in a prior year.

Neither the 2024 proposed regulations nor the preamble provide any insight into why IRS/Treasury chose to add such a limiting concept to the applicability date despite the clear statutory language. In our view, that decision also is inconsistent with the congressional intent in enacting the Spousal ULT Rule, which we understand was to help discourage plan leakage *via* rollovers to IRAs. In that regard, if a surviving spouse is required to calculate their RMDs from a plan using the Single Life Table, they can reduce their RMD obligation by rolling out of the plan and into their own IRA, thereafter calculating their RMDs using the Uniform Lifetime Table. That is exactly what the proposed regulations would encourage for all spouses whose RMDs commenced before 2024, even if the plan otherwise adopts the Spousal ULT Rule for other spouses. Thus, the IRS/Treasury interpretation does not fulfill the clear congressional intent of this provision, whereas the plain and best reading described above would do just that.

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[27] Prop. Treas. Reg. section 1.401(a)(9)-5(g)(3)(ii)(E).

3. IRA Model Forms, Model Language, and Prototype Approvals

Many member companies of the Committee rely on LRMs and/or model forms when issuing annuity contracts as traditional, Roth, and SIMPLE IRAs. Employers likewise use the model forms to establish SEP and SIMPLE IRA plans. The existing LRMs and model forms do not reflect the recent changes made by SECURE 1.0 and SECURE 2.0. In addition, in Announcement 2022-6 the IRS suspended its prototype approval program for IRAs indefinitely. The Announcement states that the IRS intends to issue revised LRMs and model forms, but does not specify a timeline. Despite the unavailability of updated LRMs, model forms, and the IRA prototype approval program, IRA providers are currently expected to update their IRA governing instruments by year-end 2026.[28] The Committee has two guidance requests on this topic, described below.

Guidance request #1: The Committee requests that IRS/Treasury (1) promptly publish updated and/or new model forms and LRMs reflecting the relevant SECURE 1.0 and SECURE 2.0 changes, and (2) promptly re-open the IRA prototype approval program.

On November 26, 2024, we sent an email to IRS/Treasury representatives transmitting the Committee's comments and suggested changes to the LRMs for traditional and Roth individual retirement annuities.[29] We hope the IRS will consider these comments and suggested changes when updating the LRMs for IRAs and other arrangements. We also hope that these materials will help expedite the re-opening of the IRA prototype approval program, which we understand has been delayed largely because the IRS has not finished its work on updating the LRMs. As indicated above, IRA providers rely on LRMs and/or model forms when preparing their IRA governing instruments. The LRMs and prototype approval program, in particular, help ensure consistency of IRA terms, clarity of IRS interpretations, and certainty of tax compliance as to the form of an IRA, all of which help promote sound tax administration, reduce burdens on taxpayers, and reduce potential controversy between the IRS and taxpayers.

Guidance request #2: We also request that IRS/Treasury announce an additional one-year extension of the deadline by which IRAs and plan documents must be amended to reflect SECURE 1.0 and SECURE 2.0.

IRS/Treasury have the statutory authority to announce such an extension and have already exercised that authority once.[30] Another extension is warranted because IRS/Treasury have not provided updated LRMs or access to the prototype approval program. As noted above, annuity issuers frequently rely on the LRMs and the prototype approval program when developing their IRA endorsements. Until those resources are made available, many annuity issuers are reluctant to proceed with amending their IRA endorsements.

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[28] *See* section 501 of SECURE 2.0 (providing that plans and IRAs generally must be amended to reflect SECURE 1.0 and SECURE 2.0 by the end of 2025 "or such later date as the Secretary of the Treasury may prescribe"); section J of Notice 2024-2, 2024-2 I.R.B. 31 (extending this deadline to 2026).

[29] Our mark-up of the LRMs for traditional IRAs can be found here: https://www.annuity-insurers.org/wp-content/uploads/2024/12/CAI-LRM-markup-TRAD-IRA-11.26.24-00426416.pdf. Our mark-up of the LRMs for Roth IRAs can be found here: https://www.annuity-insurers.org/wp-content/uploads/2024/12/CAI-LRM-markup-ROTH-IRA-11.26.24-00426418.pdf.

[30] *See supra* note 28.

In that regard, annuity issuers must obtain state regulatory approval for any new or amended IRA endorsements, and not having LRMs or prototype approval makes that approval process harder. State regulators sometimes object to endorsement language if it is too technical sounding, such as language describing federal income tax requirements. Those objections are typically dropped, however, if the language is based on LRMs or the IRS otherwise has approved the language. As a result, not having LRMs or prototype approval will likely make the state approval process more difficult.

More generally, the state regulatory approval process can be time-consuming and expensive. Our members have informed us that it can take a year or longer for the entire process to play out, including developing amended IRA endorsements, filing those endorsements with multiple state regulators, addressing any feedback from the regulators, and delivering the final approved endorsements to IRA customers. Meanwhile, the year-end 2026 deadline is approaching. In these circumstances, an additional one-year extension of that deadline is warranted.

4. Name/TIN Matching Program

Payors that make "designated distributions" within the meaning of section 3405(e)(1) from annuities, various retirement arrangements, and life insurance contracts generally must tax report such distributions to the IRS and to payees on a Form 1099-R.[31] The failure to include the correct name and taxpayer identification number ("**TIN**") on the Form 1099-R subjects these payors to substantial reporting penalties under sections 6721 and 6722, unless they can demonstrate that there was reasonable cause for the error.[32]

The IRS has established a Name/TIN Matching Program ("**Matching Program**") that allows filers of some, but not all, information returns to match their name/TIN records with IRS records before the payor files the return.[33] This program's purpose is to help avoid TIN errors and reduce the number of backup withholding notices the IRS sends, thereby reducing burdens for payors and the IRS alike. Unfortunately, the program currently is available only for "reportable payments" that are subject to backup withholding under section 3406.[34] Designated distributions that are reported on the Form 1099-R technically are not "reportable payments" for this purpose and thus are currently ineligible for the Matching Program.[35]

Since at least 2002, there have been efforts to expand the Matching Program to include information returns beyond those covered by section 3406. In Publication 2108A, *On-Line Taxpayer Identification Number (TIN) Matching Program*, the IRS states that plans to expand the Matching Program to include other Forms 1099 and Form W-2 filings are "actively being pursued." Moreover, the Treasury's *General Explanations of the Administration's Fiscal Year 2025 Revenue Proposals*

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[31] Section 6047(d).

[32] The current penalty for failing to file a correct information return with the IRS is $330, and that same penalty amount applies for failing to furnish a correct payee statement. These amounts are adjusted for inflation each year.

[33] *See* Treas. Reg. section 31.3406(j)-1; Rev. Proc. 2003-9, 2003-8 I.R.B. 516.

[34] Reportable payments are reported on Forms 1099-INT, -DIV, -PATR, -OID, -K, -MISC, -G, and -B.

[35] *See* Treas. Reg. section 31.3406(g)-2(c).

("**2025 Budget Proposal**") included a proposal to amend section 6103 to permit TIN matching for filers of all information returns that require the reporting of names and TINs. In particular, the 2025 Budget Proposal recognizes that "expanding IRS authority to apply the TIN Matching Program to all information return filers would save the government and taxpayers significant resources and would result in fewer reporting errors, IRS notices, and penalties."

Guidance request: The Committee requests that IRS/Treasury expand the Matching Program to all information returns requiring the reporting of names and TINs, including the Form 1099-R. For the reasons discussed below, this request is consistent with factors that Notice 2025-19 says IRS/Treasury will consider when assessing PGP recommendations, particularly factors relating to the reduction of costs and burdens, the reduction of controversy between payors and the IRS, and the promotion of sound tax administration.

- *Expanding the Matching Program would significantly lessen burdens on taxpayers and the IRS, reduce the potential for controversy between the IRS and taxpayers, and promote sound tax administration*.

    - Most information returns that annuity issuers file are on Form 1099-R, which are currently ineligible for the Matching Program. Based on an informal survey of Committee member companies, reporting penalties are being proposed with respect to less than 2% of the information returns they file, but 75-85% of the proposed penalties relate to Form 1099-R.[36] Because of the dollar amount of the penalty per return, these penalties can be substantial and often receive the attention of senior management. For example, one company reported that the proposed penalties on the Notice 972-CG for name and TIN mismatches on the Form 1099-R for tax year 2022 totaled almost $600,000.[37] That company devoted between 100-200 person-hours combined for approximately 12 employees to respond to the Notice.[38] For the most part, the company discovered that the name and TIN errors were due to the payees providing the company the wrong information, which is a factor supporting a reasonable cause exception to the penalties. The IRS ended up abating all of the penalties.[39] Other companies reported similar experiences.

    - In order to respond to the Notice 972-CG as it relates to the Form 1099-R, payors must take steps within 30 days from the date they receive it.[40] This requires payors to thoroughly review all of the names and TINs on the exhibit to the Notice and compare them to their own records, send letters to policyholders, and prepare a reasonable cause

[36] A number of member companies reported that this is the first time in over 10 years that they have seen penalties proposed with respect to name and TIN mismatches on the Form 1099-R.

[37] For the tax year 2022, over $10.5 million in reporting penalties were assessed against the companies that responded to the survey.

[38] The number of person-hours devoted to responding to the Notice 972-CG reported by the member companies ranged anywhere from 20-50 hours up to 1,500-2,000 hours. Other member companies estimated that responding to the Notice cost approximately $100,000.

[39] *See* Treas. Reg. section 301.6724-1(c)(1)(v).

[40] *See* IRS Publication 1586, *Reasonable Cause Regulations & Requirements for Missing and Incorrect Name/TINs*, pg. 11. Member companies also reported that the Notice 972-CG letters were being received significantly after the date of the letter, which made it difficult or impossible to respond timely.

exception letter – all in an extremely short timeframe. This diverts significant resources from other areas in the company. If the payor could confirm names and TINs when the account is opened or throughout the year, the burden could be spread out over time and would not require the fire drill.

- o Expanding the Matching Program also would reduce costs and burdens for the IRS because they would not need to process as many penalty notices that are likely to result in little or no actual penalty. IRS/Treasury acknowledged this fact in the 2025 Budget Proposal, stating that expanding the Matching Program "would save the government and taxpayers <u>significant resources</u> and would result in fewer reporting errors, IRS notices, and penalties."

- o In short, the current process is broken because it wastes IRS and taxpayer resources that would be preserved if the Matching Program were made more broadly available. This is especially exasperating considering that in many cases the proposed penalties resulting from name/TIN mismatches ultimately are abated for reasonable cause.

- *Authority for expanding the Matching Program*. We understand that prior administrations have expressed concerns that IRS/Treasury lack the authority to expand the Matching Program to other information returns. For the reasons discussed below, we believe they have such authority, so legislation is not needed to expand the program.

  - o One concern we have heard is that the confidentiality requirements under section 6103, which prohibit the IRS from disclosing return information unless otherwise authorized by the Code, preclude the Matching Program's expansion. We disagree. First, the Matching Program itself does not disclose the taxpayer's identity. Rather, it simply confirms whether the TIN and the taxpayer's name, *as provided by the payor*, match the IRS's records by providing a numerical verification code indicating whether or not there is a match. This numerical indicator from the IRS is not in a form that identifies "directly or indirectly" a particular taxpayer.[41] In addition, the Matching Program is not "making known" to the payor any new information under the Program. The information the Matching Program is confirming is required to be provided by the payee to the payor under section 6109 so the information is already "known" to the payor.[42] We further note that the member companies are also subject to federal and state privacy laws requiring them to secure all policyholder information, including any information about the policyholder's TIN.

  - o Moreover, section 3405(e)(12)(B), which requires withholding on designated distributions that are reported on Form 1099-R, authorizes IRS/Treasury to notify payors "before any payment or distribution" that the TIN furnished by the payee is incorrect. Notably, the statute does not make this notification contingent on filing an information

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[41] The 2025 Budget Proposal recognizes this: "No information other than a numerical indicator for the validity of the match is disclosed."

[42] Several lower courts have stated that return information cannot be "disclosed" or "made known" to a party who already had knowledge of that information. *See, e.g.*, Haywood v. U.S., 642 F.Supp. 188 (D. Kan. 1986) (disclosure of name and TIN to the employer is not material disclosed because the employer already had knowledge of the same); Brown v. U.S., 755 F.Supp. 285 (N.D. Cal. 1990); Elias v. U.S., 1990 WL 264722, at *7 n.14 (C.D. Cal. Dec. 21, 1990); Clark v. I.R.S., 2011 WL 3157196, at *17 (U.S.D.C. Haw. Jul. 26, 2011).

return first, nor would it be possible to do so in light of the fact that it contemplates the IRS informing the payor of the mismatch *before* any payment or distribution is even made. It also does not require that the notification occur only through the Notice 972-CG process, meaning IRS/Treasury could reasonably interpret this statutory rule as authorizing use of the Matching Program to implement it. This, coupled with the broad grant of authority under section 7805 for IRS/Treasury to "prescribe all needful rules and regulations," provides sufficient authority for expanding the Matching Program to cover at least the Form 1099-R.

- *Form of guidance*. Given that the Matching Program is already in existence, expanding it would not require new regulations. Thus, our request does not add to the number of regulations nor implicate the directive in Executive Order 14192 to eliminate 10 regulations for every new regulation. Moreover, the IRS could administer the Matching Program on a *more* uniform basis because it would be available to more payors and information returns.

- *Additional clarification requested.* Finally, the Committee also requests that the IRS revise the guidance it has issued on name control conventions, especially as it pertains to trusts.[43] Member companies have reported that a number of the name/TIN mismatch penalties that the IRS proposes are associated with trust-owned annuity contracts. In this regard, IRS Publications 1586, 1220, and 4164 provide inconsistent guidance on how to identify estates, trusts, and fiduciaries on information returns.[44] It would be helpful to have these procedures clarified to avoid unnecessary penalty notices and the resulting burden to respond.

5. Other SECURE 2.0 Guidance

As discussed in more detail below, the Committee requests guidance (a) on changes that SECURE 2.0 made to the rules for "substantially equal periodic payments" from retirement plans, IRAs, and annuities, and (b) implementing the directive in SECURE 2.0 for IRS/Treasury to expand the Employee Plans Compliance Resolution System to IRAs.

(a) Clarify the "SEPP" rules

Section 323 of SECURE 2.0 provides that annuity payments can be used to satisfy the exceptions to the 10% additional tax in sections 72(q)(2)(D) and 72(t)(2)(A)(iv) for distributions that are part of a series of substantially equal periodic payments ("**SEPPs**") made at least annually for the taxpayer's life or life expectancy, or the joint lives or joint life expectancy of the taxpayer and their designated beneficiary (the "**SEPP Exception**"). It also provides that annuity payments made for a permitted period are deemed to satisfy the SEPP Exception if they satisfy the RMD requirements, or

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[43] Name controls are four characters of the payee's name that are reported in the "B" record when electronically filing information returns with the IRS. It is our understanding that the name control is not required but can be helpful with matching names and TINs with the IRS records.

[44] For example, Publication 1586 provides that "Jonathan Periwinkle Memory Church Irrevocable Trust (EIN assigned online)" the appropriate name control would be "PER" (or "PERI" using the same example from Publication 1220). However, this is in conflict with rule #4 in the preceding paragraph of Publication 1586, which states that "[i]f the EIN is assigned online […], then the name control is developed using the first four characters of the first name on the primary name line. Ignore leading phrases such as 'Trust for' or 'Irrevocable Trust.'" By that rule, it would be reasonable to conclude that the appropriate name control for this example would be "JONA" rather than "PERI."

would satisfy those requirements if they applied. These provisions apply to distributions commencing on or after December 29, 2022.

Section 323 of SECURE 2.0 also clarifies that the tax-free rollover, transfer, or exchange of all or part of a taxpayer's interest under an arrangement from which SEPPs are being made will not be treated as a modification of the stream of payments that triggers a recapture of the additional tax under section 72(q)(3) or 72(t)(4) (the "**Recapture Tax**") if the combined distributions from both arrangements would continue to satisfy the SEPP Exception if they had been made from only the transferor arrangement. This clarification applies to transfers, rollovers, and exchanges occurring after 2023. In addition, the statute provides that neither these clarifications nor those described above regarding annuity payments should be construed as creating any inference regarding prior law.

Guidance request: For the reasons discussed in our Supplemental 2.0 Guidance Letter and our Notice 2024-55 Letter,[45] the Committee requests:

- Guidance that in cases where SEPPs are being made as withdrawals from a non-annuitized account using one of the safe harbor methods that apply to such accounts under the applicable IRS guidance,[46] the taxpayer can switch to an annuity form of payment without trigging the Recapture Tax,

- Guidance that a payout annuity may be purchased to distribute SEPPs that are calculated with respect to a non-annuitized account balance, and

- Clarification that the treatment of annuity payments as SEPPs can apply to annuity payments that commenced before December 29, 2022, provided that the payments are calculated with respect to a permitted period and satisfy the RMD rules or would satisfy those rules if they applied.

(b) Update EPCRS to Apply to IRAs

Section 305 of SECURE 2.0 generally provides that any inadvertent failure by a plan to comply with the applicable rules under certain sections may be self-corrected under EPCRS without a submission to the IRS. It also directs Treasury to expand EPCRS to allow IRA issuers to address "eligible inadvertent failures" with respect to IRAs. This provision generally became effective as of December 29, 2022.

In Notice 2023-43,[47] the IRS provided interim guidance on the circumstances in which plan sponsors may self-correct certain errors before the IRS formally updates EPCRS, including clarification that errors occurring before December 29, 2022, may be self-corrected. With respect to IRAs, however, the Notice expressly provides that IRA issuers may *not* use EPCRS to correct (or self-correct) IRA errors until the IRS formally amends EPCRS to address IRAs.

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[45] *See supra* note 3.

[46] Notice 2022-6, 2022-5 I.R.B. 460, *modifying and superseding* Rev. Rul. 2002-62, 2002-2 C.B. 710, *modifying* Q&A-12 of Notice 89-25, 1989-1 C.B. 662; Notice 2004-15, 2004-1 C.B. 526.

[47] 2023-24 I.R.B. 919.

Guidance request: The Committee recommends that IRS/Treasury promptly revise EPCRS to expand the program to IRAs. The Committee notes that section 305 of SECURE 2.0, which requires these changes, is effective as of December 29, 2022, and thus the EPCRS program should be available for IRAs at least as of that date. Our Supplemental 2.0 Guidance Letter requests that EPCRS be modified to permit the self-correction of certain inadvertent errors involving IRAs, including (1) certain inadvertent distributions, (2) certain inadvertent RMD failures, (3) certain inadvertent failures to timely furnish an IRA endorsement and/or disclosure statement with respect to an annuity contract that is distributed from qualified retirement plan or individual retirement account and is intended to be an IRA annuity after the distribution, (4) certain inadvertent errors where the wrong type of IRA was established, and (5) inadvertent titling errors for inherited IRAs.[48] In that letter, we also requested clarification that the user fee for a Voluntary Compliance Program submission under EPCRS that varies with the amount of assets of a "plan" applies in a submission involving IRAs by treating each type of IRA (traditional or Roth) as a "plan," rather than treating each individual traditional IRA or Roth IRA account or annuity contract as a separate plan. Implementing these changes would not only fulfill the congressional directive for IRS/Treasury to expand EPCRS to IRAs, it would reduce burdens and promote sound tax administration by making it easier to correct inadvertent and largely non-consequential errors relating to IRAs.

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We appreciate your consideration of our request for guidance on these issues. If you have any questions or if we can be of any assistance, please contact either of the undersigned.

Sincerely,

Bryan W. Keene
bwkeene@davis-harman.com
202-662-2273

Mark E. Griffin
megriffin@davis-harman.com
202-662-2268

Counsel to the Committee of Annuity Insurers
www.annuity-insurers.org

Attachment: List of member companies

[48] *See supra* note 3.

The COMMITTEE of ANNUITY INSURERS

Allianz Life Insurance Company, Minneapolis, MN
American Equity Investment Life Insurance Company, West Des Moines, IA
Ameriprise Financial, Minneapolis, MN
Athene USA, Des Moines, IA
AuguStar Life Insurance Company, Cincinnati, OH
Brighthouse Financial, Inc., Charlotte, NC
Corebridge Financial, Houston, TX
Equitable, New York, NY
Fidelity Investments Life Insurance Company, Boston, MA
Fortitude Re, Jersey City, NJ
Genworth Financial, Richmond, VA
Global Atlantic Financial Group, Southborough, MA
Guardian Insurance & Annuity Co., Inc., New York, NY
Jackson National Life Insurance Company, Lansing, MI
John Hancock Life Insurance Company, Boston, MA
Lincoln Financial Group, Fort Wayne, IN
Massachusetts Mutual Life Insurance Company, Springfield, MA
Metropolitan Life Insurance Company, New York, NY
Nationwide Life Insurance Companies, Columbus, OH
New York Life Insurance Company, New York, NY
Northwestern Mutual Life Insurance Company, Milwaukee, WI
Pacific Life Insurance Company, Newport Beach, CA
Protective Life Insurance Company, Birmingham, AL
Prudential Insurance Company of America, Newark, NJ
Sammons Financial Group, Chicago, IL
Security Benefit Life Insurance Company, Topeka, KS
Symetra Financial, Bellevue, WA
Talcott Resolution, Windsor, CT
Thrivent, Minneapolis, MN
TIAA, New York, NY
TruStage, Madison, WI
USAA Life Insurance Company, San Antonio, TX

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