



441 G St. N.W.
Washington, DC 20548

B-336556

August 6, 2024

The Honorable Ron Wyden
Chairman
The Honorable Mike Crapo
Ranking Member
Committee on Finance
United States Senate

The Honorable Jason Smith
Chairman
The Honorable Richard Neal
Ranking Member
Committee on Ways and Means
House of Representatives

Subject: *Department of the Treasury, Internal Revenue Service: Required Minimum Distributions*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of the Treasury, Internal Revenue Service (IRS) entitled “Required Minimum Distributions” (RIN: 1545-BP82). We received the rule on July 25, 2024. It was published in the *Federal Register* as final regulations on July 19, 2024. 89 Fed. Reg 58886. The stated effective date of the rule is September 17, 2024.

According to IRS, this final rule sets forth amendments to the Income Tax Regulations under various sections of the Internal Revenue Code of 1986 (Code). IRS stated that these final regulations relate to required minimum distributions from qualified plans; section 403(b) annuity contracts, custodial accounts, and retirement income accounts; individual retirement accounts and annuities; and certain eligible deferred compensation plans. IRS further stated that these regulations will clarify certain issues related to trusts as beneficiaries and situations under which a beneficiary is identifiable for purposes of section 401(a)(9) of the Code. Additionally, IRS stated that these regulations provide guidance related to eligible rollover distributions under section 402(c) reflecting statutory changes to that section since regulations were first issued in 1995.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The rule was published in the *Federal Register* on July 19, 2024. 89 Fed. Reg 58886. The *Congressional Record* does not yet reflect the date of receipt by the House of Representatives; however, IRS provided documentation showing the House of Representatives received the rule on July 22, 2024. Email from IRS to GAO, *Subject: CRA Submission: TD 10001 (GAO)* (July 25, 2024). The Senate received the rule on July 26, 2024. 170 Cong. Rec. S5580 (daily ed. July 30, 2024). The rule has a stated effective date of

September 17, 2024, but provides that certain provisions will not be applicable until taxable years beginning on or after January 1, 2025. Therefore, the stated effective date is less than 60 days from receipt of the rule by Congress.

Enclosed is our assessment of IRS's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Charlie McKiver, Assistant General Counsel, at (202) 512-5992.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Aron L. Cosby
Federal Register Liaison
Internal Revenue Service

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE
ENTITLED
“REQUIRED MINIMUM DISTRIBUTIONS”
(RIN: 1545-BP82)

(i) Cost-benefit analysis

In its submission to us, the Department of the Treasury, Internal Revenue Service (IRS) indicated that it did not prepare an analysis of the costs and benefits of this final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

IRS certified that this final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

IRS determined that this final rule does not include any federal mandate that may result in expenditures by state, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more, adjusted annually for inflation, in any one year.

(iv) Agency actions relevant to the Administrative Pay-As-You-Go-Act of 2023, Pub. L. No. 118-5, div. B, title III, 137 Stat 31 (June 3, 2023)

Section 270 of the Administrative Pay-As-You-Go-Act of 2023 amended 5 U.S.C. § 801(a)(2)(A) to require GAO to assess agency compliance with the Act, which establishes requirements for administrative actions that affect direct spending, in GAO’s major rule reports. In guidance to Executive Branch agencies, issued on September 1, 2023, the Office of Management and Budget (OMB) instructed that agencies should include a statement explaining that either: “the Act does not apply to this rule because it does not increase direct spending; the Act does not apply to this rule because it meets one of the Act’s exemptions (and specifying the relevant exemption); the OMB Director granted a waiver of the Act’s requirements pursuant to section 265(a)(1) or (2) of the Act; or the agency has submitted a notice or written opinion to the OMB Director as required by section 263(a) or (b) of the Act” in their submissions of rules to GAO under the Congressional Review Act. OMB, *Memorandum for the Heads of Executive Departments and Agencies*, Subject: Guidance for Implementation of the Administrative Pay-As-You-Go Act of 2023, M-23-21 (Sept. 1, 2023), at 11–12. OMB also states that directives in the memorandum that supplement the requirements in the Act do not apply to proposed rules that have already been submitted to the Office of Information and Regulatory Affairs, however agencies must comply with any applicable requirements of the Act before finalizing such rules.

IRS did not discuss the Act in this final rule. In its submission to us, IRS indicated that the Act is not applicable to the rule.

(v) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On February 24, 2022, IRS published proposed regulations. 87 Fed. Reg. 10504. IRS subsequently published two correction notices with respect to the proposed regulations on March 21, 2022, and May 20, 2022. 87 Fed. Reg. 15907, 30845. IRS stated that it received comments on the proposed regulations and held a public hearing on June 15, 2022. IRS noted that after the comment period closed, the SECURE 2.0 Act of 2022 was enacted, affecting many of the provisions in the proposed regulations. See Pub. L. No. 117-328, 136 Stat. 4459, 5275 (Dec. 29, 2022). IRS summarized the comments and explained its revisions to the proposed regulations in this final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

IRS determined that this final rule contains information collection requirements under PRA and submitted them to OMB for review.

Statutory authorization for the rule

IRS promulgated this final rule pursuant to section 7805 of title 26, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

IRS stated a regulatory impact assessment is not required because pursuant to the Memorandum of Agreement, Review of Treasury Regulations under Executive Order 12866 (June 9, 2023), tax regulatory actions issued by IRS are not subject to the requirements of section 6 of the Order.

Executive Order No. 13132 (Federalism)

IRS determined that this final rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Order.