



# ED SLOTT'S IRA ADVISOR

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Tax & Estate Planning for Your Retirement Savings

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### GUEST IRA EXPERT: Natalie B. Choate, J.D.

Wellesley, MA

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## Proposed RMD Regs Retain Old Rules for Spouse Beneficiaries ...With New Twists!

In the song "Atlantic City" from his *Nebraska* album, Bruce Springsteen sings, "Well now, everything dies, baby, that's a fact. But maybe everything that dies someday comes back." The Boss was telling a story about a mob hitman, but, in a way, the same can be said of the rules for spouse beneficiaries who inherit IRAs. The 2022 [SECURE 2.0 Act](#) may have appeared to do away with the old rules, but in the recently released [proposed RMD regulations](#), the IRS has now mostly retained them, with some important new twists.

On July 18, 2024, the IRS issued proposed regulations on the RMD rules from the SECURE 2.0 Act of 2022, which answered many of the lingering questions about section 327. These proposed regulations can be used immediately as guidance. The new proposed regulations make it clear that the old rules for spouse beneficiaries are not, as many thought, dead. Instead, the IRS has brought them back, but with a couple of new additions that are beneficial for spouse beneficiaries.

In the new regulations, the IRS keeps intact the rules allowing spousal rollovers of inherited accounts. This is a popular option (especially after age 59½) but not the only option available. For some spouse beneficiaries, it can be a good move to remain a beneficiary of the inherited account. Just as was the case under the old rules, keeping an inherited account can still allow for penalty-free distributions to spouse beneficiaries who are under age 59½, while potentially delaying RMDs for years.

When a surviving spouse decides to keep an account as an inherited IRA, different rules apply depending on whether the deceased IRA owner died *before* the deceased owner's required beginning date (RBD) or *on or after* the RBD. *When is the RBD?* It is currently April 1 of the year following the year the IRA owner turns age 73.

### Interpreting Section 327

Of all the many provisions in the 2022 SECURE 2.0 Act, none has been more perplexing than Section 327. This provision appears to scrap the old rules for spouse beneficiaries who inherited a retirement account and replace them with a completely new set of rules. Interpreting the new rules has been difficult. The legislative history is scant. The Senate Finance Committee Report, which explains the provisions of SECURE 2.0, says only the following:

*"Section 327 allows a surviving spouse to elect to be treated as the deceased employee for purposes of the required minimum distribution rules. Section 327 is effective for calendar years beginning after December 31, 2023."*

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