



The SECURE Act

Keeping our Subscribers Informed

InterActive Legal

Change happens. Sometimes very quickly.

When it does, you need the added horsepower that a network of thought-leading experts can bring to your practice.

When The SECURE Act was enacted, estate planners were left with little time to react and prepare. Below are some of the measures InterActive Legal took to keep subscribers informed and at the ready to serve their clients:

- ✓ 12/20/19 President Trump signs **SECURE Act** into law
- ✓ 12/20/19 InterActive Legal sends memo to subscribers explaining changes and offering immediate drafting recommendations
- ✓ 1/2/20 InterActive Legal adds sample “Client Letter” to resource library to help subscribers alert their clients to significant changes
- ✓ 1/8/20 InterActive Legal hosts a national webinar featuring Retirement Benefits Planning Expert & Author, **Natalie Choate**
- ✓ 1/13/20 InterActive Legal makes Natalie Choate’s Post-SECURE Beneficiary Payout Rules Chart available to Heckerling attendees (see reverse)
- ✓ 1/14/20 InterActive Legal makes pre-release sample language incorporating SECURE Act changes available to subscribers
- ✓ 1/24/20 InterActive Legal releases updated see-through trust provisions conforming to SECURE Act changes

If you’re still not a subscriber and wondering if InterActive Legal is worth it, just ask any of our subscribers. They’ll tell you we’re worth our weight in gold.

Natalie Choate's Post-SECURE Beneficiary Payout Rules Chart

This chart is provided solely as a quick reference convenience for practitioners.
Consult statute regulations and long outline for details.

If a participant (P) dies and leaves his IRA or other retirement plan to a beneficiary, what is the payout period applicable to that beneficiary?

If the beneficiary is an:	The retirement benefits must be withdrawn as follows:
NDB (1)	5-year rule if P died before his/her Required Beginning Date (RBD), otherwise what would have been P's remaining life expectancy (ghost rule)
PODB (2)	10-year rule. All benefits must be distributed by end of calendar year that contains the 10 th anniversary of the date of P's death (or ghost rule?)
EDB (3)	An EDB must withdraw the benefits in annual instalments over the EDB's life expectancy, subject to any wrinkles applicable to that type of EDB. Upon the EDB's later death (or, in the case of a minor child, within 10 years of attaining majority if earlier), life expectancy payout stops and all benefits must be distributed within 10 years after such death/majority.

1. **NDB: nondesignated beneficiary:** The beneficiary is P's estate, charity(ies), or a trust that does not qualify as a see-through trust under the IRS's minimum distribution trust rules. SECURE did not change the NDB payout rules OR the IRS's see-through trust rules.
2. **PODB: plain old designated beneficiary (DB who is not an EDB):** The beneficiary is an individual, or multiple individuals, or a trust that qualifies as a see-through trust under the IRS's minimum distribution trust rules (i.e., it is a "conduit trust" or see-through accumulation trust), but does not meet the definition of EDB. 10-year rule applies (but a DB *may* be able elect to use the ghost rule if P died after his RBD and P's remaining life expectancy was more than 10 years; IRS pronouncements needed to confirm this).
3. **EDB: Eligible Designated Beneficiary:** P's surviving spouse or minor child, any disabled or chronically ill individual, or any individual not more than 10 years younger than P. Here are "wrinkles" applicable to particular EDBs: P's surviving spouse can also roll over the benefits to his/her own IRA. If not rolled over, the surviving spouse as sole beneficiary must start taking annual RMDs by later of year P would have reached age 72 or the year after P's death; all other EDBs must start the life expectancy payout the year after P's death. A conduit trust for one EDB gets the same RMD treatment as the EDB individually would have gotten (except cannot do spousal rollover). An accumulation trust for the sole life benefit of a disabled or chronically ill EDB can get the same treatment the individual EDB (or conduit trust for such EDB) would have been entitled to.

The unknowns: We don't know whether a see-through trust for multiple EDBs can qualify for EDB treatment and if so how. For example a conduit trust for P's three minor children presumably is an EDB—but when does the 10-year rule kick in? When oldest child reaches majority? When all three do? If there is a see-through accumulation trust for a less-than-10-years-younger beneficiary with remainder outright to another less-than-10-years younger, so both benes are EDBs, does that trust get EDB treatment? If a single trust divides into multiple conduit subtrusts for P's children, some of whom are minors and some aren't, do the minors' subtrusts get EDB treatment? All of this is unclear under SECURE and we await regulations.