# 2023 Tax Season Update Webinar

*Presented By:*

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# Objectives

- At the end of this course, you will be able to:
  - Discuss energy and vehicle credits with clients.
  - Help clients understand their required minimum distribution obligations.
  - Analyze which aspects of SECURE 2.0 apply to your clients.
  - Explain the Corporate Transparency Act requirements.

Section 1

# Energy Credits

# History of Energy Tax Legislation


- The Energy Policy Act of 2005
- Emergency Economic Stabilization Act of 2008
- The American Recovery and Reinvestment Act of 2009
- Inflation Reduction Act of 2022
  - Signed into law on August 16, 2022.
  - Residential Clean Energy Credit
  - Energy-Efficient Home Improvement Credit
  - Clean Vehicle Credit
  - Previously Owned Clean Vehicle Credit
  - Qualified Commercial Clean Vehicle Credit

# Energy-Efficient Home Improvement Credit

- For tax years after 2022, the Nonbusiness Energy Credit is renamed to Energy-Efficient Home Improvement Credit.
- Nonrefundable personal credit is equal to 30% of the cost qualifying home improvements.
- The $500 lifetime limit is replaced by a $1,200 annual credit limit.

# Energy-Efficient Home Improvement Credit

- Specific limits:
  - $150 for home energy audits.
  - $250 for an exterior door ($500 total for all exterior doors).
  - $600 for exterior windows and skylights; central air conditioners; electric panels and certain related equipment; natural gas, propane, or oil water heaters; natural gas, propane, or oil furnaces or hot water boilers.
  - $2,000 for electric or natural gas heat pump water heaters, electric or natural gas heat pumps, and biomass stoves and boilers (for this one category, the $1,200 annual limit may be exceeded).

# Residential Clean Energy Credit

- Was called Residential Energy Efficient Property Credit, scheduled to expire in 2024, now Residential Clean Energy Credit, now extended through 2034.
- Previously, the credit was worth 26% of the cost to install qualifying systems that use solar, wind, geothermal, biomass or fuel cell power to produce electricity, heat water or regulate the temperature in your home.
- The credit amount was scheduled to drop to 23% in this year and then expire in 2024. Under the Inflation Reduction Act, the credit amount jumps to 30% from 2022 to 2032. It then falls to 26% for 2033 and 22% for 2034. The credit will then expire after 2034.
- Starting in 2023, the credit no longer applies to biomass furnaces and water heaters, but it will apply to battery storage technology with a capacity of at least three kilowatt hours.
- There is no overall dollar limit for this credit.

# Included in the Credit

- Residential energy property expenditures include amounts paid to purchase qualified energy property as well as costs for on-site preparation, assembly or original installation of the property.

# Which Residence?

- For qualified energy property, the property must be installed in or on the taxpayer's U.S. residence but need not be a primary residence!
- Vacation homes qualify.
- Rental homes used as a primary residence qualify.
- Original use must begin with the taxpayer (new stuff, not used).

# Joe Goes Green

- In one taxable year, Joe purchases and installs the following:
  - Two exterior doors, each $1,000.
  - Windows and skylights, total cost of $2,200.
  - One central A/C, cost of $5,000.
- All property installed meets the applicable energy efficiency and other requirements for qualifying for the Energy Efficient Home Improvement Credit.

# Joe Goes Green

- First, 30% of each $1,000 door's costs is $300, but the per door limit of $250 applies to reduce the maximum possible credit for each door to $250 each.
- Thus, Joe's expenditures for exterior doors potentially qualify him to claim up to a $500 tax credit.

# Joe Goes Green

- Next, 30% of Joe’s total $2,200 of expenditures for windows and skylights is $660, but the $600 limit for <u>all windows and skylights</u> applies to limit Joe’s credit for such expenditures to $600.
- Finally, 30% of Joe’s $5,000 cost paid for the central air conditioner is $1,500, but the $600 per item limit for energy property applies to limit Joe’s credit for such expenditures to $600.

# Joe Goes Green

- Adding these credit amounts yields a sum of $1,700 ($500 + $600 + $600), but the aggregate limit of $1,200 applies to limit Joe’s total amount of Energy Efficient Home Improvement Credit to $1,200.

# Summary Chart

| Energy-Efficient Home Improvement Credit (Post-2022) [§25C(b)] | |
|---|---|
| **Item** | **Credit limit** |
| Annual overall total credit limit | $1,200 per taxpayer<br>The limit is reached when the taxpayer's expenses equal $4,000 for the year ($4,000 x .30= $1,200) |
| Annual limit for any item of qualified energy property * | $600 (this is superseded by the $2,000 limit on certain items [§25C(b)(5)]* |
| Annual exterior windows and skylights limit | $600 |
| Annual single exterior door limit | $250 for single exterior door ($500 for all exterior doors) |
| Annual home energy audit | $150 |
| Separate special limit for certain qualified energy property (heat pumps, heat pump water heaters, and biomass stoves) * | $2,000* |
| Windows and doors after 2024 | Item must be produced by a qualified manufacturer and the taxpayer's return must include the item's qualified product identification number** |

# High-Efficiency Electric Home Rebates

- Although not a tax credit, the High-Efficiency Electric Home Rebate Program provide rebates to low- and middle-income families who purchase energy-efficient electric appliances.
- To qualify for a rebate, taxpayer’s total annual income must be less than 150% of the median income where they live.

# High-Efficiency Electric Home Rebates

- Qualifying homeowners can get rebates as high as:
  - $840 for a stove, cooktop, range, oven, or heat pump clothes dryer;
  - $1,750 for a heat pump water heater; and
  - $8,000 for a heat pump for space heating or cooling.
  - Rebates for non-appliance upgrades will also be available up to the following amounts:
  - $1,600 for insulation, air sealing, and ventilation;
  - $2,500 for electric wiring; and
  - $4,000 for an electric load service center upgrade.

# High-Efficiency Electric Home Rebates

- There are limits on the amount certain families can get.
- Each qualifying family is limited to no more than $14,000 in total rebates under the program.
- The $4.5 billion to be allocated for rebates will be distributed to families through state and tribal governments that establish their own qualifying programs. The funds will be available through September 30, 2031.
- https://www.energy.gov/scep/home-energy-rebate-program

Section 2
# Vehicle Credits

# 3 Vehicle Credits Available

- Clean Vehicle Credit
- Previously Owned Clean Vehicle
- Qualified Commercial Clean Vehicle

# Clean Vehicle Credit

- Inflation Reduction Act Renamed the NQPEDMV (New Qualified Plug-In Electric Drive Motor Vehicle) credit to the Clean Vehicle Credit.
  - Eliminated the limitation on the number of vehicles eligible for the credit.
  - Required final assembly be in North America.
  - Changes the way the credit is calculated.
  - Makes the credit available only if:
    - A taxpayer’s modified adjusted gross income (MAGI) is below a certain amount.
    - The manufacturer’s suggested retail price (MSRP) is below a certain amount.

# Clean Vehicle Credit

- $7,500 max credit claimed on Form 8936, *Qualified Plug-In Electric Drive Motor Vehicle Credit*, for individual and business taxpayers.
- Non-refundable personal tax credit for qualifying EVs.
  - ***Unused credits are lost!***
- Any portion of the credit attributable to depreciable property (used in a trade or business, or for the production of income) is part of the general business credit and is applied under those rules.
  - Unused credits can be carried back one year and forward to future years.

# MAGI Limitations

- The credit is not allowed if the taxpayer’s MAGI for the credit year (**or if less, for the preceding tax year**) exceeds:
  - $300,000 MFJ and QSS
  - $225,000 HOH
  - $150,000 Others
- MAGI is AGI increased by:
  - The foreign earned income and housing exclusions.
  - Income exclusions from Guam, American Samoa, the Northern Mariana Islands or Puerto Rico.
- No phaseout. No indexing for inflation. One dollar over and you’re hosed!

# MSRP Requirements

- A vehicle does not qualify for the credit if the Manufacturer's Suggested Retail Price exceeds:
  - $80,000 for a van, SUV, or pick-up trucks.
  - $55,000 for any other vehicle.

# 2023 Transition Rule

- For vehicles placed in service before or on April 17, 2023, the base amount of the credit is $2,500. The credit is increased by:
    - $417 if the vehicle draws propulsion energy from a battery with not less than five-kilowatt-hours of capacity, plus an additional…
    - $417 credit for each kilowatt hour of battery capacity in excess of five-kilowatt-hours.
- The maximum credit is $7,500.
- However, since a post-2022 EV must have a capacity of at least seven-kilowatt-hours, the minimum credit during the transition period for a qualified vehicle is $3,751 ($2,500 + $417 + $417 + $417) [Fact Sheet FS-2023-08, Topic A, Q6].

# 2023 Transition Rule

- The credit amount depends on if the vehicle meets the critical mineral requirements ($3,750) and/or the battery component requirements ($3,750) .
  - If a vehicle meets neither requirement, no credit is available.
  - If a vehicle meets only one of the requirements, the eligible credit is $3,750 .
  - If a vehicle meets both requirements, the full $7,500 is available.

# Transfer of Credit

- Beginning in 2024, credits may be transferred to dealers for payment.
- Taxpayer must still meet MAGI requirements.
- If taxpayer does not meet MAGI requirements, the credit must be recaptured in the amount of the payment received from the dealer.
- Recaptured credit is reported on Form 1040, Schedule 2, Line 17a.

# Pre-2023 EV credit

- Sam purchased a Tesla Model S in 2022 and took possession of the vehicle in 2022.
- Based on the information provided on the IRS website, Sam would
  not be eligible for a NQPEDMV credit as the manufacturer sold 200,000 of these vehicles.
- The fact that the situation may change for a Tesla purchased in 2023 does not impact Sam.
- Sam may not amend his 2022 return to claim a clean vehicle credit based on 2023 rules.
- This rule does not change if Sam purchased the car in 2022 but did not take delivery until 2023.

# Electric Motorcycles and Bikes

- Prior to 2021, credit was available for qualified two-wheeled plug-in EVs.
- The credit expired on Dec. 31, 2021.
- Electric bicycles also do not qualify.

# Previously-Owned Clean Vehicle Credit

- This credit is available for qualified buyers who purchase a previously owned (aka used) clean vehicle in a qualified sale after 2022 and before 2033.
- The tax credit is equal to 30% of the vehicle’s purchase price, up to a maximum credit of $4,000.
- The credit applies to the tax year the taxpayer places the vehicle in service and is nonrefundable.
- After 2023, a qualified buyer may elect to transfer the credit to the seller.

# Qualified Commercial Clean Vehicle Credit

- Applicable to vehicles acquired after 2022 and before 2033.
- Vehicle must be depreciable (used in a business or for the production of income).
- $7,500/$40,000 max credit – dependent on vehicle weight.

# MAGI Requirements

- The taxpayer is not eligible for the credit if MAGI for the current tax year or the preceding tax year, (whichever is lower) exceeds:
  - $150,000 MFJ or QSS
  - $112,500 for HOH
  - $75,000 Others
- MAGI is adjusted gross income (AGI) increased by:
  - The foreign earned income and housing exclusions.
  - Income exclusions from Guam, American Samoa, the Northern Mariana Islands or Puerto Rico.

***Note:*** *No gradual phaseout! No indexing for inflation!*

# Qualified Sale

- A qualified sale is a sale of a motor vehicle to a qualified buyer by a **dealer** that is licensed to sell motor vehicles.
- A qualified buyer is an **individual** who:
    - Buys the vehicle for use and not for resale.
    - Does not qualify as any other taxpayer’s dependent.
    - Did not claim the credit during the three years preceding the purchase.
- The sales price cannot exceed $25,000.

# Susie's Son Wants to Buy a Car!

- Susie tells you that her son has saved enough money to purchase a previously owned clean vehicle directly from his best friend's parents.
- Susie knows the vehicle is a qualified vehicle as she went to the Department of Energy's website and entered all the relevant information, and it appears that this vehicle is eligible for the credit. Yay!

What will you tell her?

# Qualified Commercial Clean Vehicle Credit

- Business taxpayers may be eligible for a tax credit for purchasing a qualified commercial clean vehicle.
- There are no limits on who may claim the credit.
  - The vehicle must be depreciable.
- The credit is part of the §38 general business credit and thus is subject to the §38 limits and the §39 business credit carryback and carryforward rules.

# Credit Amount

- The amount of this credit is generally the lesser of:
  - 15% of the basis of the vehicle or 30% of the cost of a purely electric vehicle.
  - The incremental cost of the vehicle.
- The credit is limited to $7,500 for a vehicle with a Gross Vehicle Weight Rating (GVWR) of less than 14,000 pounds, and $40,000 for other vehicles.

# Claiming the Credit

- The credit is calculated on Form 8936-A, Qualified Commercial Clean Vehicle Credit, for vehicles acquired and placed in service during the tax year beginning in 2022.
- Separate Schedule 1's (Form 8936-A) is used to figure the credit amount for each vehicle that qualifies for the credit.
- Form 8936, Part V, is used to figure the credit for vehicles placed in service in a tax year beginning after 2022.


Which are true?

a. The MAGI limitations apply to the current year or preceding year, whichever is lower.

b. The maximum MSRP for an SUV to qualify for the clean vehicle credit is $55,000.

c. The maximum credit for a previously-owned clean vehicle is $4,000.

d. Unused personal credits for EVs are carried forward to the following year.

Section 3
# RMDs

# Managing Expectations…

- RMDs are a mess.
- I don't think they could have made this more complicated.
- You won't memorize this stuff over the next hour.
- Prepare for a rough road!

# Required Minimum Distributions

- RMDs must be taken by plan participants and beneficiaries.
- The government will let you delay paying tax but wants to collect that tax at some point!
- RMDs are not eligible for rollover treatment (as that would rather defeat the point).
- RMD requirements apply to traditional IRAs, SEPs, SIMPLEs, §401(k)s, §403(b)s and §457(b)s.

What type of retirement account is missing from this list?

# Roth RMDs

- Roth IRAs do not require RMDs unless/until they are inherited.
- **However, RMDs have been required for designated Roth accounts in 401(k) and 403(b) plans!**
- SECURE 2.0 changed this for 2024 and later years, thus for tax years beginning after Dec. 31, 2023, employees do not have to take lifetime RMDs from Roth accounts within qualified employer plans.
- **Note that this exception does not apply to RMDs for tax years beginning before 2024.**
- Taxpayers must still take RMDs from designated Roth accounts for 2023, including those with a required beginning date of April 1, 2024.

# Required Beginning Dates

- The age to start taking RMDs has been increasing under different tax laws.
- SECURE 2.0 increased the age to start taking RMDs from age 72 to age 73, but only for taxpayers reaching age 72 after 2022.

# Required Beginning Dates

| Taxpayer reaches age: | Or is born: | Start RMDs at age: |
|---|---|---|
| 70 ½ before 2020 | Before July 1, 1949 | 70 ½ |
| 70 ½ after 2019 and age 72 before 2023 | July 1, 1949 – Dec 31, 1950 | 72 |
| 72 after 2022 and 73 before 2033 | 1951-1959 | 73 |
| 74* after 2032 | 1960 or later | 75 |

*Watch for a technical correction that increases the required beginning date to age 75 for individuals reaching age 73 (rather than age 74) after 2032, which would be consistent with Congressional intent.

# Laws Keep Changing…

- So, people get confused!
- Taxpayers turning age 72 in 2023 don't have to start taking RMDs until they reach age 73, which happens in 2024, so no RMD was due for 2023.
- Unfortunately, many of these taxpayers could have received distributions in 2023 that were incorrectly characterized as RMDs because the plan administrator's automated payment system hadn't been updated yet to reflect the RBD changes under SECURE 2.0.
- Notice 2023-54 provided transition relief, allowing affected taxpayers to toll these distributions back into retirement plans by 9/30/23.
- This rollover is permitted even if another rollover had taken place in the prior 12 months.

# RBDs for IRAs

- The owner of a traditional IRA (including SEPs and SIMPLEs) must start taking distributions from their IRA by April 1 of the year following the year in which they attain the applicable age.
- The owner must take RMDs by Dec. 31st annually thereafter, even if they're still working and making IRA contributions.
- The first RMD may be taken at any time during the year the taxpayer reaches the RBD age or by April 1st of the following year.
- **Beware!** If the owner waits to take their first RMD until April 1 of the year following the year they reach the applicable age, they must take two RMDs in that year.

And would 2 RMDs in one year be a good thing or a bad thing?

# Qualified Plans

- Employees participating in qualified plans must usually begin taking RMDs from the plan by April 1st of the year following the later of:
  - The date the employee reaches the RBD age OR,
  - The date the employee retires from work with the employer maintain that plan.
- But note that the terms of the plan may differ; in that case, the plan's terms apply.

# RMD Aggregation

- IRA owners do not have to take separate RMDs from each IRA.
- RMDs may be aggregated, and the total taken from any one or more of their IRAs.
- The option to take an aggregated distribution from one IRA only applies to IRAs an individual holds as the IRA owner.
  - IRAs held as an owner cannot be aggregated with qualified plans or IRAs held as a beneficiary.
  - IRAs held as a beneficiary of the same decedent may be aggregated.
  - Spouse’s RMDs cannot be aggregated with other spouse’s RMDs.
- Qualified plans cannot be aggregated, so RMDs must be taken from each plan.
- §403(b) plans may be aggregated.

# Qualified Charitable Distributions

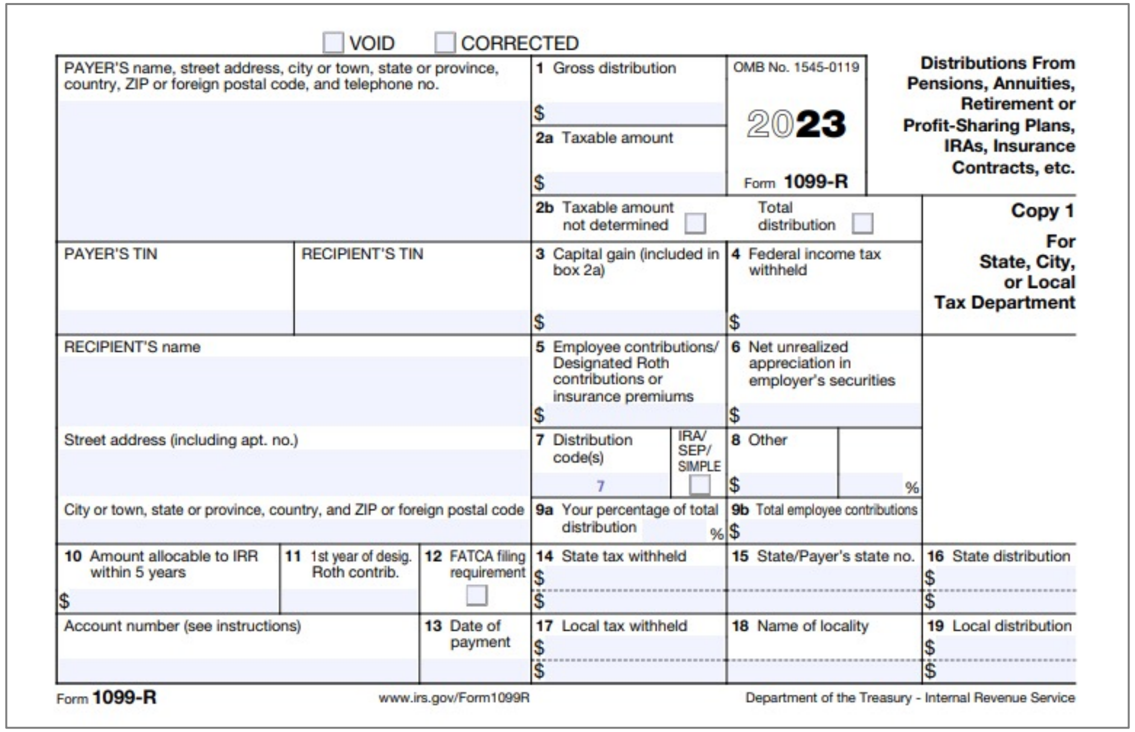
- A qualified charitable distribution (QCD) is a distribution from an IRA that may be excluded from gross income because the money was transferred directly from the IRA to a qualified charitable organization.
  - The QCD is considered all or part of the taxpayer’s RMD.
  - The max excludable amount is $100,000 per taxpayer, per year.
  - On a joint return, each spouse can exclude up to $100,000.
  - After 2023, the $100,000 limit will be indexed for inflation.

# Qualified Charitable Distributions

- QCDs cannot be made from SEP IRAs, SIMPLE IRAs or qualified retirement plans!
- That said, taxpayers might be eligible to do a tax-free rollover from one of these plans to a traditional IRA and then make a QCD from the IRA to the charity.
- Also note that deductible IRA contributions made after the taxpayer reaches age 70 ½ cannot be excluded from income as a QCD.

# QCD Reporting

- Unfortunately, QCDs are reported as a normal distribution on Form 1099-R.
- There is no special reporting by IRA trustees!
- We must rely on the taxpayer to tell us if any QCDs were completed during the year.



VOID CORRECTED

PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.

1 Gross distribution $

2a Taxable amount $

OMB No. 1545-0119

2023

Form 1099-R

**Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.**

2b Taxable amount not determined

Total distribution

**Copy 1 For State, City, or Local Tax Department**

PAYER'S TIN

RECIPIENT'S TIN

3 Capital gain (included in box 2a) $

4 Federal income tax withheld $

RECIPIENT'S name

5 Employee contributions/ Designated Roth contributions or insurance premiums $

6 Net unrealized appreciation in employer's securities $

Street address (including apt. no.)

7 Distribution code(s) 7

IRA/ SEP/ SIMPLE

8 Other $ %

City or town, state or province, country, and ZIP or foreign postal code

9a Your percentage of total distribution %

9b Total employee contributions $

10 Amount allocable to IRR within 5 years $

11 1st year of desig. Roth contrib.

12 FATCA filing requirement

14 State tax withheld $ $

15 State/Payer's state no.

16 State distribution $ $

Account number (see instructions)

13 Date of payment

17 Local tax withheld $ $

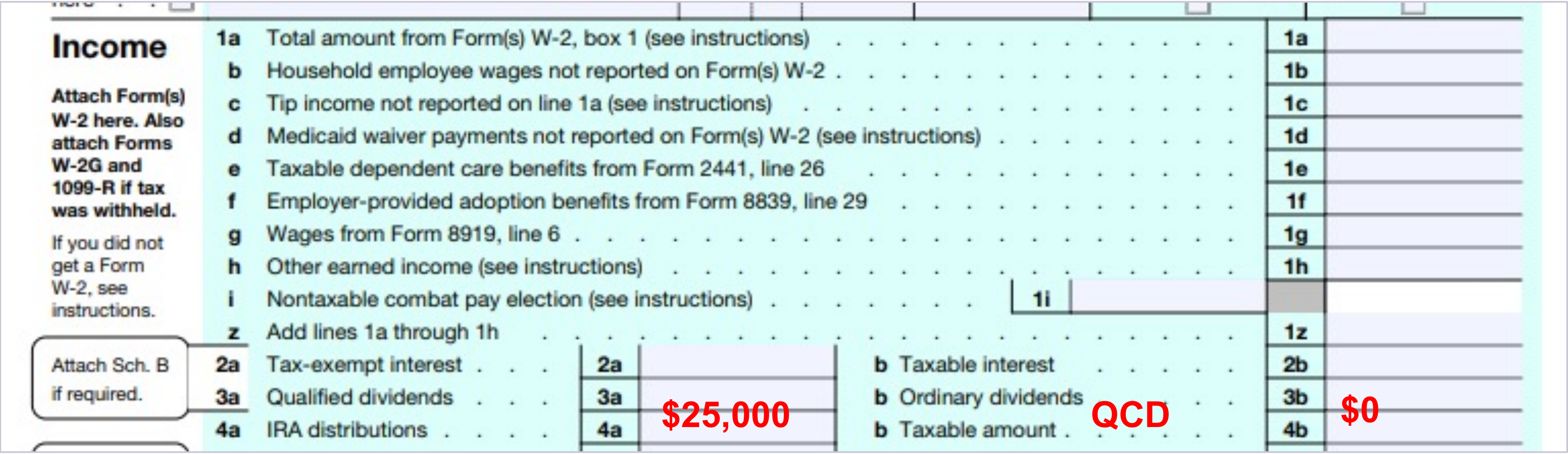
18 Name of locality

19 Local distribution $ $

Form 1099-R www.irs.gov/Form1099R Department of the Treasury - Internal Revenue Service

# QCD Reporting

- Report the entire distribution on Form 1040, Line 4a.
- If the total amount distributed is a QCD, enter zero on Line 4b.
- If only part of the distribution is a QCD, enter the taxable amount of the portion that isn't a QCD on Line 4b. Enter "QCD" next to Line 4b.



**Income**

Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld.

If you did not get a Form W-2, see instructions.

| | | | |
|---|---|---|---|
| 1a | Total amount from Form(s) W-2, box 1 (see instructions) | 1a | |
| b | Household employee wages not reported on Form(s) W-2 | 1b | |
| c | Tip income not reported on line 1a (see instructions) | 1c | |
| d | Medicaid waiver payments not reported on Form(s) W-2 (see instructions) | 1d | |
| e | Taxable dependent care benefits from Form 2441, line 26 | 1e | |
| f | Employer-provided adoption benefits from Form 8839, line 29 | 1f | |
| g | Wages from Form 8919, line 6 | 1g | |
| h | Other earned income (see instructions) | 1h | |
| i | Nontaxable combat pay election (see instructions) 1i | | |
| z | Add lines 1a through 1h | 1z | |

Attach Sch. B if required.

| | | | | | | |
|---|---|---|---|---|---|---|
| 2a | Tax-exempt interest | 2a | | b Taxable interest | 2b | |
| 3a | Qualified dividends | 3a | | b Ordinary dividends | 3b | |
| 4a | IRA distributions | 4a | $25,000 | b Taxable amount QCD | 4b | $0 |

# Alice Makes a QCD

- Alice directs her entire RMD of $25,000 to be paid to a qualifying recipient as a QCD.
- She would also like to deduct this amount as a charitable contribution on Schedule A.
- After all, this was a charitable contribution.

Your thoughts?

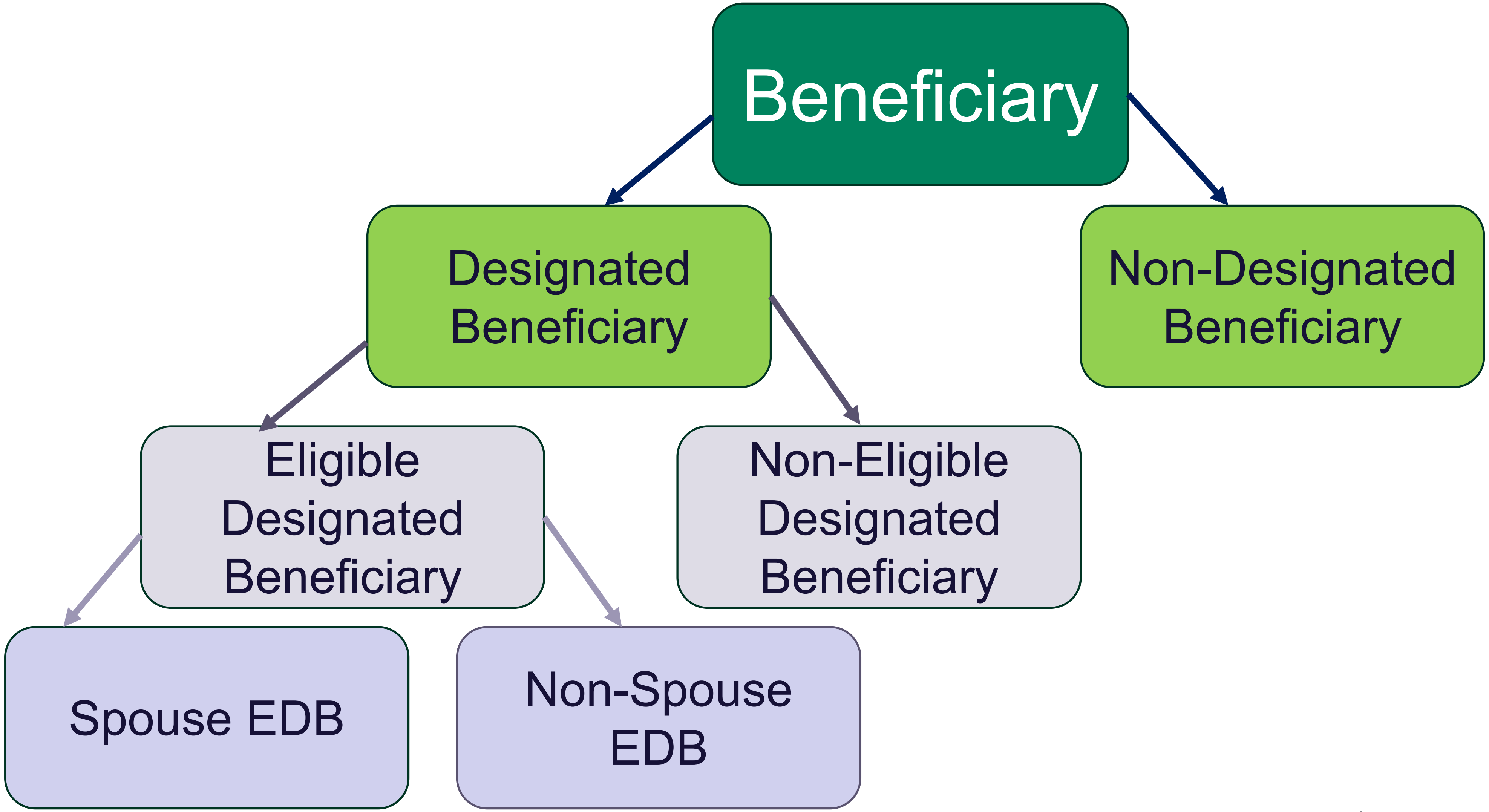
# Beneficiary RMDs

- Beneficiaries must take RMDs from retirement accounts (IRAs and qualified plans).
- RMDs must also be taken from inherited Roth IRAs!
- The details of how these RMDs must be taken depend on the type of beneficiary and whether death occurred before or after a plan owner's RBD.

# Types of Beneficiaries

- Designated Beneficiary:
  - Spouse
  - Non-Spouse Eligible Designated Beneficiary (EDB)
  - Non-Spouse Non-EDB Designated Beneficiary
- No Designated Beneficiary

# Types of Beneficiaries



# Not a Designated Beneficiary

- If an individual inherits a qualified plan under a will or applicable state law (rather than having been named as a beneficiary), they are not a designated beneficiary under the plan.
- If the plan owner's estate is the named beneficiary, it is treated as if there is **no designated beneficiary** for RMD purposes.

# Not a Designated Beneficiary

- A trust is not a designated beneficiary, though individual beneficiaries of the trust may be treated as designated beneficiaries if these four requirements are met:
  - The trust is a valid trust under state law, or would be, but for the fact that there is no corpus.
  - The trust is irrevocable or, by its terms, becomes irrevocable upon the death of the owner.
  - The beneficiaries of the trust who are beneficiaries with respect to the trust's interest in the owner's benefit are identifiable from the trust instrument.
  - The plan administrator receives proper documentation by Oct. 31 of the calendar year following the calendar year in which the taxpayer died.

# Designated Beneficiary

- A designated beneficiary is a person who is entitled to a portion of a retirement plan contingent upon the owner’s death or other specified event.
- An individual is not a designated beneficiary if they predecease the plan’s owner, disclaim the entire interest to which they are entitled via a qualified disclaimer, or receive the entire benefit to which they are entitled.

# Eligible Designated Beneficiary (EDB)

- A designated beneficiary is an EDB if they are one of the following:
  - The surviving spouse of the plan owner.
  - A child of the employee who has not reached the age of majority (age 21).
  - Disabled or chronically ill on the plan owner’s date of death.
  - Not more than 10 years younger than the employee (typically sibling).

# Eligible Designated Beneficiary (EDB)

- **Disabled means:**
  - Is unable to engage in substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or to be of long-continued duration if the individual is age 18 or older.
  - Has a medically determinable physical or mental impairment that results in marked and severe functional limitations and that can be expected to result in death or to be of long-continued and indefinite duration if the individual is under age 18.
  - Has a Social Security determination that the individual is disabled.
- **Chronically ill as defined under §7702B(c)(2):**
  - In general, uses the same definition for qualified long-term care insurance purposes, but the individual must be unable to perform (without substantial assistance from another individual) at least two activities of daily living *for an indefinite period that is reasonably expected to be lengthy in nature* (instead of the usual at least 90 days).
  - Not more than 10 years younger than the plan owner based on the plan owner’s and the ficiary’s dates of birth.

# RMD Rules for Death Before RBD

- In general, there are three methods for distributing RMDs when a plan owner dies before their RBD and there are no contradicting plan provisions.
  - 5-Year Rule
  - 10-Year Rule
  - Life Expectancy Payments

# Death Before RBD: No Designated Beneficiary

- The five-year rule always applies if there is no designated beneficiary. The plan owner’s entire interest in the plan must be distributed on or before Dec. 31 of the fifth year following the plan owner’s year of death.
- Annual RMDs are not required before the fifth year.
- However, distributions may be taken before the fifth year.

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# Example – No Designated Beneficiary

- Mark (age 60) died in 2023 before his RBD.
- His estate was named the beneficiary of his retirement account.
- Since there’s no designated beneficiary, Mark’s estate must fully distribute the retirement account within 5 years, by Dec. 31, 2028.

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# Death Before RBD: Non-Spouse Non-EDB

- If the plan owner dies before their RBD with a non-spouse non-EDB designated beneficiary, the entire interest in the plan must be distributed by the end of the 10th year following the year of death.
- Annual RMDs are not required before the 10th year.
- Distributions may be taken at any time as long as all the funds are distributed by the end of that 10th year.
- No more “stretch” rules!

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# Non-Spouse Non-EDB Example

- Alice inherits an IRA from her mother in 2022.
- Alice is a designated beneficiary but is not a spouse and not an EDB.
- Alice must distribute the entire IRA by Dec. 31, 2032, but she doesn’t have to take annual RMDs before that date.

# Death Before RBD: Non-Spouse EDB

- If the plan owner dies before their RBD, a non-spouse EDB must take annual RMDs over the **beneficiary's** remaining life expectancy.
- RMDs must begin by Dec. 31 of the year following the plan owner's year of death.
- The 10-year rule applies to the remaining balance in the plan if:
  - The EDB dies or,
  - The minor child EDB reaches the age of majority.

## Death Before RBD: Surviving Spouse

- If the plan owner dies before their RBD and the surviving spouse is the beneficiary, RMDs must be made over the surviving spouse's life expectancy.
- RMD must begin by the **later** of:
  - Dec. 31 of the year following the year of the owner's death, or
  - Dec. 31 of the year in which the owner would have reached their RBD.
- Unless they take advantage of their special options!

# Death Before RBD: Surviving Spouse

- The surviving spouse may elect to treat the decedent's IRA as their own IRA, in which case RMDs from a traditional IRA are treated as that surviving spouse's own IRA.
  - RMDs do not have to begin until the surviving spouse reaches the applicable age to start taking RMDs.
  - Note that early distributions before age 59½ are subject to the 10% additional tax unless an exception applies.
- This election doesn't benefit a taxpayer who wants to take early distributions without penalty!

# Death Before RBD: Surviving Spouse

- For calendar years beginning after 2023, SECURE 2.0 provides similar treatment to employer-provided qualified plans if the employee dies before their RBD and their spouse is the sole designated beneficiary.
- In this case, the surviving spouse may elect to be treated as if they were the employee for RMD purposes.
- The surviving spouse does not have to begin RMDs until they reach their own RBD.
- The election must be made as prescribed by the IRS and must include timely notice to the plan administrator [§401(a)(9)(B)(iv)]. It is irrevocable without IRS consent.

# Wendy Survives Peter

- In 2023, Peter died at age 66. He named his wife, Wendy, 69 years old, as the sole beneficiary of his traditional IRA.
- Wendy must begin taking distributions no later than the end of the year Peter would have reached age 73, which would be Dec. 31, 2030.
- But Wendy has the option to treat Peter’s IRA as her own, in which case she can delay taking RMDs until she reaches age 73 in 2028.
- Her RBD would be April 1, 2029.

# Inherited Roth IRAs

- Roth IRAs are not subject to RMDs, BUT inherited Roth IRA accounts are subject to the same RMD requirements as inherited traditional IRA accounts.
- Withdrawals of **contributions** from an inherited Roth are tax free. However, withdrawals of **earnings** may be subject to income tax if the Roth account is less than 5-years old at the time of the withdrawal.
- Distributions from another Roth IRA cannot be substituted for these distributions unless the other Roth IRA was inherited from the same decedent.

# Summary of RMDs if Death Before RBD

- Designated beneficiary non-spouse non-EDB must distribute entire interest by end of 10th year following death, annual RMDs not required.
- Non-spouse EDB must take annual RMDs over EDB's life expectancy, beginning end of year following year of death. 10-year rule under certain circumstances.
- Surviving spouse must take RMDs over surviving spouse's life expectancy by December 31st of the year decedent would have reached RBD or year after year of death OR use rollover rules.
- No designated beneficiary must distribute entire interest by end of 5th year following year of death, annual RMDs not required.

# QUIZ

Which client's retirement account must be distributed in full within 5 years after death?

a. Alice's beneficiary is her mother.

b. Bob's beneficiary is his estate.

c. Charlie's beneficiary is his twin brother.

d. Doug's beneficiary is his newborn daughter.

# Death After RBD!

- If the plan owner dies after they've reached their applicable age, rules may differ!
- Again, it'll depend on the type of beneficiary.
- And again, the options are the 5-year rule, the 10-year rule, and the life expectancy rule.

# RMD Rules for Death After RBD

- If the plan owner dies after their RBD, an RMD for the year of death must be calculated using the lifetime RMD rules.
- If the RMD wasn't already distributed to the plan owner before death, the beneficiary is required to take it by the end of the year of the plan owner's death.
- RMDs must be taken over the plan owner's or DB's remaining life expectancy, depending on the type of beneficiary.

# After RBD: No Designated Beneficiary

- If there is no DB, RMDs must be taken over the plan owner's remaining life expectancy but the full plan amount must be distributed by the end of the 5th year.
- The difference between before and after the plan owner's RBD is that in this case, annual distributions are required.
- Bad tax planning!

5

# After RBD: Non-Spouse Non-EBD

- If the DB is not a spouse and not an EDB, RMDs are taken over the longer of:
  - DB's remaining life expectancy OR,
  - Plan owner's remaining life expectancy.
- If the DB is older than the plan owner, the designated beneficiary may use the plan owner's remaining life expectancy, but the full amount must be distributed the end of the $10^{th}$ year following the plan owner's year of death.
- Annual RMDs must begin by Dec. 31 of the year following the employee's year of death and the remaining balance must be distributed by the end of the tenth year following the employee's year of death [Prop. Reg. §1.401(a)(9)-5(d)(1)(i)].

# After RBD: Non-Spouse Non-EBD Example

- Bob designated his younger sister, Jane, as the sole beneficiary of his §401(k). Jane is more than 10 years younger than Bob, so she isn't an EDB.
- Bob dies in 2023 at age 85. The FMV of his 401(k) on Dec. 31, 2023, was $500,000.
- RMDs must be taken over Jane remaining life expectancy since it's longer than Paul's.
- Jane continues to take an RMD each year based on her remaining life expectancy, and she must distribute the remaining balance in full by Dec. 31, 2033.

# After RBD: EDBs

- An EDB follows the same RMD rules as a non-spouse designated beneficiary who isn’t an EDB.
- But the remaining balance does not have to be distributed by the end of the 10th year following the plan owner’s year of death!
- The 10-year rule only comes into play if the EDB minor child reaches the age of majority OR, the EDB dies.

# Surviving Spouse

- If the plan owner dies after their RBD and their spouse is the sole beneficiary, RMDs must be taken over the longer of the:
    - Surviving spouse’s remaining life expectancy, or
    - Plan owner’s remaining life expectancy.

# Surviving Spouse Rollover Rules

- When a surviving spouse receives a distribution (other than the RMD) from a qualified plan after the death of the employee, they can roll over this amount within 60 days.
- They can roll it over into their own eligible retirement plan or IRA and take RMDs when they reach their RBD.
- These rollover rules apply whether the employee died before or after their RBD and even if the surviving spouse isn't the sole beneficiary.

# Rollover Rules Example

- Mark died in 2023 at age 78, leaving his wife, Alice (age 69), as the sole beneficiary of his §401(k) plan. Mark had taken his RMD for 2023 before he died.
- The plan has a 5-year default payout rule, which applies if the beneficiary fails to make a rollover or life expectancy payout election within 5 years after the year of death.
- Alice can roll over this §401(k) into an inherited IRA and take RMDs each year over her remaining life expectancy.
- Or Alice can roll over the §401(k) into an IRA in her own name and not be required to take RMDs until she reaches her own RBD.

# Summary of RMDs if Death After RBD

- Designated beneficiary non-spouse non-EDB must start annual RMDs over the longer of the beneficiary's or decedent's life expectancy and distribute entire amount by end of 10th year.
- Non-spouse EDB must take annual RMDs over the greater of EDB's or decedent's life expectancy. 10-year rule only in special circumstances.
- Surviving spouse must take RMDs over greater of decedents or surviving spouse's life expectancy by December 31st of the year following year of death or use rollover rules.
- No designated beneficiary must distribute entire interest by end of 5th year following year of death, annual RMDs not required.


Which client's retirement account must take annual RMDs over the longer of the beneficiary's or decedent's life expectancy and distribute entire amount by end of 10th year?

a. Alice's beneficiary is her mother.
b. Bob's beneficiary is his estate.
c. Charlie's beneficiary is his twin brother.
d. Doug's beneficiary is his newborn daughter.

# Excess Accumulation

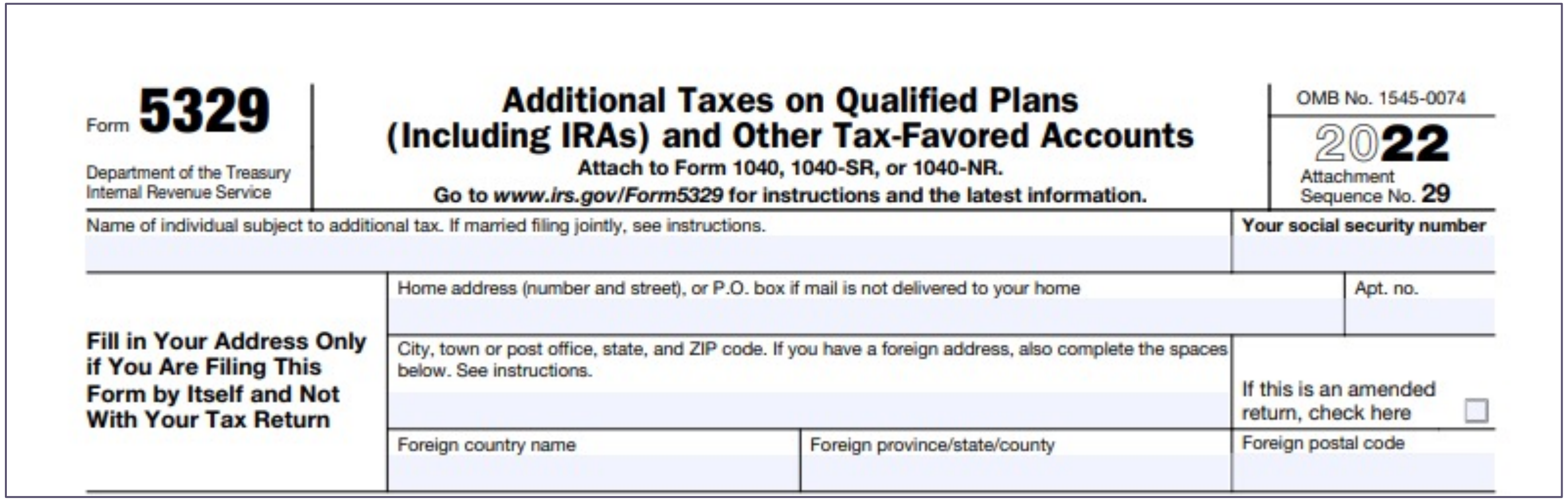
- An excess accumulation occurs when the amount distributed during the year is less than the RMD for that year.
- Failing to take an RMD results in an excess accumulation.
- An excise tax applies for the year on excess accumulations. The tax is due for the tax year that includes the last day by which the RMD must be taken.
- For tax years beginning before 2023, the excise tax was 50%.
- However, for tax years beginning after 2022, SECURE 2.0 reduced the excise tax from 50% to 25%.
- SECURE 2.0 also provides that the 25% excise tax is reduced to 10% in certain cases.

# Fixing the Error

- If the taxpayer takes a distribution of the missed RMD amount during the **correction window**, they are subject to only a 10% excise tax instead of the 25% tax.
- The **correction window** is the period of time beginning on the date the excise tax was imposed with respect to the excess accumulation and ending on the earliest of:
  - Date a notice of deficiency was mailed with respect to the excise tax.
  - Date on which the excise tax was assessed.
  - Last day of the second year following the end of the year in which the excise tax was imposed.

# Fixing the Error Example

- Susan (age 75) forgot to take her 2023 RMD by Dec. 31, 2023.
- If her 2023 RMD was $5,000, she's subject to an excise tax of $1,250 ($5,000 x 25%) on Form 5329, Part IX.
- However, if Susan takes the 2023 RMD in 2024, she can file an amended return reporting a $500 ($5,000 x 10%) excise tax on Form 5329, Part IX.



Form **5329**

Department of the Treasury
Internal Revenue Service

**Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts**

**Attach to Form 1040, 1040-SR, or 1040-NR.**

**Go to *www.irs.gov/Form5329* for instructions and the latest information.**

OMB No. 1545-0074

**2022**

Attachment Sequence No. **29**

| | | |
|---|---|---|
| Name of individual subject to additional tax. If married filing jointly, see instructions. | | **Your social security number** |
| **Fill in Your Address Only if You Are Filing This Form by Itself and Not With Your Tax Return** | Home address (number and street), or P.O. box if mail is not delivered to your home | Apt. no. |
| | City, town or post office, state, and ZIP code. If you have a foreign address, also complete the spaces below. See instructions. | If this is an amended return, check here ☐ |
| | Foreign country name / Foreign province/state/county | Foreign postal code |

# Transition Relief

- Before the proposed regulations were issued, beneficiaries may have thought the 10-year rule operated like the five-year rule, meaning annual RMDs were not required, and distributions could be taken at any time as long as the entire amount was distributed by the end of the 10th year.
- These beneficiaries may not have taken any RMDs in 2021 or 2022.
- Notice 2022-53 provided relief from the 50% excise tax if specified RMDs weren’t taken for 2021 or 2022.
- Notice 2023-54 states this relief from the excise tax (25% for 2023) is extended one more year for certain beneficiaries who failed to take a specified RMD in 2023.

# Waiving the Penalty

- A taxpayer can ask the IRS to waive the penalty if the taxpayer establishes that the shortfall was due to reasonable error and takes steps to remedy the shortfall!
- Complete Form 5329 and on the dotted line next to Line 54 enter “RC” (Reasonable Cause) and the amount the taxpayer wants waived in parentheses.
- Subtract this amount from the total shortfall.
- Complete Line 55 and pay the tax that is reported on this line, if any. Also, attach a reasonable cause statement.

Section 4

# SECURE 2.0

# What’s SECURE 2.0?

- The SECURE 2.0 Act is designed to encourage more employers to offer retirement plan benefits and more employees to participate in saving for their future.
- SECURE 2.0 is focused on expanding coverage and increasing retirement savings for Americans, simplifying and clarifying retirement plan rules, and updating plan administration for plan fiduciaries.

# Retroactive 1st Year Elective Deferrals

- For the first plan year in which a §401(k) plan is established, the plan can receive employee contributions up to the date of the individual's tax return filing date (without extensions).
- The provision permits the sole proprietor to make a retroactive elective deferral when the plan is first established.
    - Before SECURE 2.0, the plan had to be established before year-end to make contributions.
- The retroactive first year elective deferral is only applicable if the sole proprietor is the only employee of their trade or business.

# Elimination of 10% Tax

- If a taxpayer takes a distribution from an IRA or other qualified retirement account before the age of 59 ½, they are subject to a 10% early withdrawal tax on the distribution.
  - The code provides various exceptions to this additional tax.
- Per SECURE 2.0, the 10% additional tax will not apply to corrective distributions and the corresponding earnings that are returned to the taxpayer by the due date of the taxpayer’s return for the year (including extensions).

# Penalty Exceptions

- The ability of a taxpayer to make an early withdrawal without having to incur the 10% penalty due to a federally declared disaster (declared after Jan. 25, 2021) is now permanent.
- $22,000 may be distributed from employer retirement plans or IRAs for affected individuals.
- The exception is retroactive to disasters occurring in 2021 & 2022.
- Withdrawal must be made within 180 days of the disaster if the taxpayer's principal place of abode is within the declared disaster area.
- **Taxpayer must have sustained an economic loss due to the disaster to qualify for the exception.**

# Penalty Exceptions

- Taxpayers who wish to avoid income tax can make repayments of the withdrawal at any time during the three-year period beginning on the day after the date of the distribution.
- Use Form 8915-F, *Qualified Disaster Retirement Plan Distributions and Repayments*, to report distributions and repayments.

Form **8915-F**
(Rev. January 2023)
Department of the Treasury
Internal Revenue Service

**Qualified Disaster Retirement Plan Distributions and Repayments**
**Attach to Form 1040, 1040-SR, or 1040-NR.**
**Go to *www.irs.gov/Form8915F* for instructions and the latest information.**

OMB No. 1545-0074
Attachment Sequence No. **915**

Name. If married, file a separate form for each spouse required to file Form 8915-F. See instructions.
**Your social security number**

***Before you begin (see instructions for details):***
- Form 8915-F replaces Form 8915-E for 2021 and later years. Form 8915-E was used for coronavirus-related and other 2020 disaster distributions.
- Also use Form 8915-F for 2021 and later disaster distributions. Qualified disaster recovery distributions are qualified disaster distributions.
- Major Disaster Declarations at *www.FEMA.gov/disaster/declarations* provides the only qualified disasters and their FEMA numbers for item C.
- "This year" (as used on this form) is the year of the form you check in item A next. For example, if you check 2022, "this year" is 2022.

**Complete items A and B below. Complete item C and check the box in item D for the coronavirus, as applicable.**

**A Tax year for which you are filing form** (check only one box): ☐ 2021 ☐ 2022 ☐ 2023 ☐ 2024 ☐ Other ______

**B Calendar year in which qualified disaster(s) began** (check only one box): ☐ 2020 ☐ 2021 ☐ 2022 ☐ 2023 ☐ Other ______

**C FEMA number for each of your qualified disasters for the year checked in item B above.** Use item D, **not** item C, for the coronavirus.

(1) ______ (2) ______ (3) ______ (4) ______ (5) ______ (6) ______

**D If your only disaster, or one of your disasters, is the coronavirus, check this box** ☐ Don't list the coronavirus in item C.

# Public Safety Employees

- Prior to SECURE 2.0, a penalty exception applied to qualified public safety employees who took distributions from their qualified retirement amounts after the age of 50.
- SECURE 2.0 expanded who was eligible to include employees who provide firefighting services as well as employees of a state or political subdivision of a state who provide services as a corrections officer or as a forensic security employee.
- The penalty exception also applies to taxpayers with 25 years of service.

# Terminally Ill Employees

- Distributions made to an employee who is a terminally ill individual on or after the date certified by a physician as having a terminal illness are not subject to the 10% penalty.
- A terminally ill individual is an individual who has been certified by a physician as having an illness or physical condition which can reasonably be expected to result in death in 84 months or less after the date of the certification.
- Eligible taxpayers may repay the withdrawn money from the retirement plan over three years and be refunded for income taxes on the repaid funds.

# Domestic Abuse

- A taxpayer can take a penalty free distribution from a retirement account if they are a victim of domestic abuse starting after Dec. 31, 2023.
- The aggregate amount that may be treated as an eligible distribution to a domestic abuse victim is limited to the lesser of:
  - $10,000 (adjusted annually for inflation).
  - 50% of the present value of the nonforfeitable accrued benefit of the employee under the plan.

# Emergency Exceptions

- Another new exception which applies after Dec. 31, 2023, is the exception for certain distributions used for to pay emergency expenses.
- An emergency expense is defined as one that is due to unforeseeable or immediate financial needs relating to personal or family emergency expenses.
- Only one distribution is permissible per year of up to $1,000, and a taxpayer has the option to repay the distribution within three years.
- No further emergency distributions are permissible during the three-year repayment period unless repayment occurs.

# Qualified Birth/Adoption

- The SECURE Act included a provision that allows individuals to receive distributions from their retirement plan in the case of birth or adoption without paying the 10% additional tax under §72(t).
- These distributions are known as qualified birth or adoption distributions (QDAB).
- The distributions can be recontributed to a retirement plan at any time and are treated as rollovers.

# Indexing IRA Contributions

- The IRA catch-up contribution amount will be adjusted annually starting in 2024.
- Existing catch-up contribution amount is $1,000 and has been that same amount for years.
- Indexing for inflation is expected to allow taxpayers over age 50 to contribute more to their IRA accounts.
- Remember the contribution limit is an **aggregate limit** for the taxpayer's Roth IRA and traditional IRA contributions!

# Matching Student Loan Payments

- Section 401(k) plans may treat student loan payments as elective deferrals or elective contributions for matching contribution purposes, effective 2024.
- The employee must certify the amount of student loan repayments made each year to the employer making the matching contributions.

# Roth RMDs

- After 2023, RMDs are not required for Roth accounts in employer-sponsored plans during the lifetime of the employer.
- This does not apply to RMDs due in 2023.

# Pension-Linked Savings

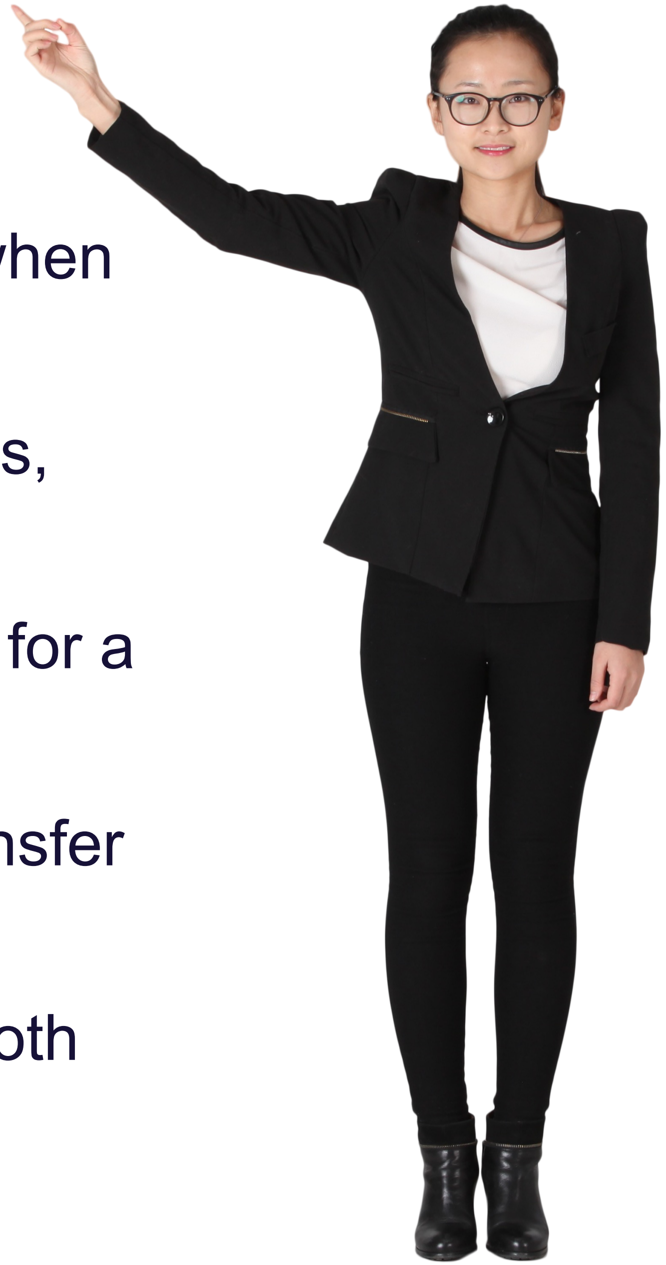
- Employers have the option to offer their non-highly compensated employees a pension-linked emergency savings account.
- Non-highly compensated employees eligible.
- Automatic enrollment an option.
- Contributions capped at $2,500 though employer can set a lower amount.
- Contributions made on Roth-like basis.
- First four withdrawals during the year cannot be subject to fees or charges.
- Distributions not subject to 10% penalty.

# §529 Plan Rollovers

- Taxpayers can rollover amounts from their §529 plans into a Roth IRA and exclude it from income if certain conditions are met:
  - Taxpayer must be the DB  of the account and the account must be maintained for 15 years.
  - The distribution cannot exceed amount contributed plus earnings in previous 5 years.
  - Taxpayer must have taxable income equal to the rollover amount.
  - Rollover cannot exceed $35,000 over the taxpayer's lifetime or the annual Roth IRA contribution limits for the year.

# §529 Plan Rollover Example

- Olivia’s grandparents established a §529 plan for her when she was born.
- Thanks to scholarships and assistance from her parents, there was a remaining balance of $10,000 in the plan.
- Olivia has no siblings or other family members to allow for a change of beneficiary on the account.
- Starting in 2024, Olivia can use a trustee-to-trustee transfer to rollover the funds into a Roth IRA.
- Allowed rollover may be limited based on the annual Roth IRA contribution limit and her taxable income.



Section 5

# Corporate Transparency Act (CTA)

# Corporate Transparency Act (CTA)

- **Why** is this happening?
- **Who** has to register with FinCEN?
- **What** information needs to be provided?
- **When** are updates required?
- **Where** do I do this?

# WHY? Corporate Transparency Act (CTA)

- By increasing the information reported on business entities, the CTA aims to prevent the exploitation of U.S. corporations and LLCs for criminal gain and assist law enforcement in detecting criminal activity.
- The goal is to unearth “bad actors” who are hiding behind corporate shields.
- The Act will collect data and create a database of who owns the economic interest and who is in control of these vast number of entities that are created in the U.S.
  - 35-40 million entities currently registered in the U.S.

# But Just U.S. Companies, Right?

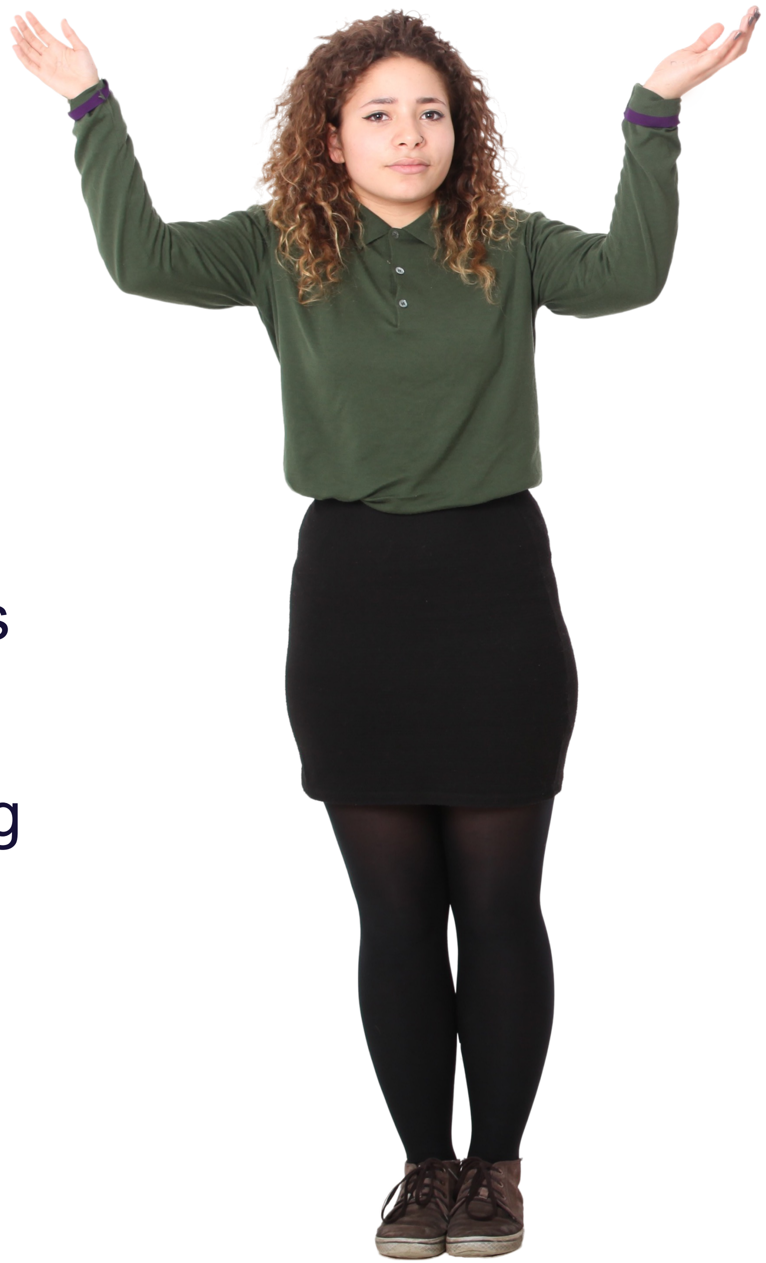
- Not necessarily!
- Legislation requires the collection of information for domestic and foreign reporting companies.
  - A domestic reporting company is any entity that is created by filing a document with the secretary of state or similar office.
  - A foreign reporting company is an entity formed under the law of a foreign jurisdiction that is registered to do business within the U.S.
- If the foreign company is not registered to do business with the U.S., then that entity is not affected by the CTA.

# But My Clients are Just Little Guys…

- And that's exactly who this legislation is aimed at.
- The "Big Boys" are already being monitored by the government; the little guys are the ones under the radar.
- FinCEN has estimated that there are more than 32 million preexisting entities (created prior to 2024) and approximately 5 million new entities per year (formed Jan. 1, 2024, and thereafter) that will be Reporting Companies and required to furnish BOI (Beneficial Owner Information) reports under the CTA.

# Who Must Report?

- Reporting is required for **company applicants** and **beneficial owners**.
- A company applicant is the person who filed the document that created the entity or registered the foreign entity to do business in the U.S. for entities formed/registered after January 1, 2024.
- Or the person who is primarily responsible for filing that relevant document by someone else.



# Multiple Company Applicants?

- Correct. If Sam hires Susie's Legal Service to create his LLC and Susie has her paralegal, Jack, actually file the paperwork, then both Susie and Jack are company applicants.
- But take heart! Company applicants are limited to two persons:
  - The individual who directly files the document to create or register the reporting company and/or…
  - The individual who is primarily responsible for directing or controlling such filing if more than one individual is involved in the filing.

# Who Is a Beneficial Owner?

- A beneficial owner is someone who:
  - Exercises substantial control over the reporting company OR,
  - Owns/controls at least 25% of the ownership interest.

# Substantial Control? Really?

- Yes, really. Substantial control is defined via 3 indicators:
  - Service as a senior officer of a reporting company.
  - Authority over the appointment or removal of any senior officer of the board of directors (or similar body) of a reporting company.
  - Direction, determination or decision of, or substantial influence over, important decisions made of a reporting company.

# And Ownership?

- Ownership interest includes both equity in the reporting company and interests such as capital or profit interests, convertible instruments, warrants or rights, or other options or privileges to acquire equity, capital or other ownership interests.
- Ownership may be direct or indirect.
- All ownership interest of any class or type is considered for that 25% threshold.
- Could be joint ownership with one or more other persons of an undivided interest or could be through control of ownership interest owned by another individual.

# And Ownership?

- Could be via a trust or other similar arrangement that holds the ownership interest, either as a trustee of the trust or other individual (if any) with the authority to dispose of trust assets; or as a beneficiary who is the sole permissible recipient of income and principal from the trust and/or has the right to demand a distribution of or withdraw substantially all the assets from the trust.
- Could be as a grantor or settlor who has the right to revoke the trust or otherwise withdraw the assets of the trust.

# Ownership Example #1

Jack and Jill each directly own 50% of Up the Hill, Inc., a small construction company. Jack is the president, Jill is CEO, and there are no other officers.

Are Jack and Jill beneficial owners?

# Ownership Example #2

- Joseph has been manager and chief clerk for Up the Hill for 40 years.
- He has no ownership in the company, but he is responsible for the day-to-day operations. Joseph controls the petty cash and payroll disbursements and is authorized to be the sole signatory for checks under the amount of $5,000. He does **not** have the authority to make major expenditures or substantially influence the overall direction of the company.

Is Joseph a beneficial owner?

# Ownership Example #3

- Bob and Barb are co-owners of B&B LLC.
- Bob is the majority owner, with an 80% ownership interest in the entity.
- Barb owns 20% of the company. Her title is VP of operations. Her responsibilities include managing the day-to-day activities of the LLC, including billing, processing payments, working with customers and other business administrative duties.

Who is a beneficial owner?

# So, Who's NOT a Beneficial Owner?

- A minor child, as defined in the state in which the entity is formed, if the information of the parent or guardian of the minor child is reported properly.
  - An updated report must be submitted when the child reaches the age of majority.
- An individual acting as a nominee, intermediary, custodian or agent on behalf of another individual.
- An individual acting solely as an employee whose control is derived entirely from the employment status of the person.
- An individual whose only interest in the entity is through a right of inheritance.
- A creditor of the entity unless the creditor meets the requirements of a beneficial owner.

# Who is Exempt?

- Large operating companies:
  - Employ more than 20 full-time employees. Full-time employment is defined as anyone employed on average of 30 hours a week or 130 hours per month.
  - Have a physical office (genuine working office) in the U.S.
  - File a federal income tax or information return reporting more than $5 million in gross receipts or sales in the previous year.
- Companies that have registered under Section 102 of Sarbanes-Oxley Act.

# And What's the Sarbanes-Oxley Act?

- Section 102 of the Sarbanes-Oxley Act applies to public accounting firms performing audits on stock issuers.


# Who is Exempt?

- Securities Issuers
- Domestic Government Authorities
- Banks
- Domestic Credit Unions
- Depository Institution Holding Companies
- Money Transmitting Businesses
- Securities Broker-Dealers
- Securities Exchange or Cleaning or Clearing Agencies
- Registered Investment Companies
- Venture Capital Fund Advisors
- Insurance Companies
- State Licensed Insurance Producers

# Who is Exempt?

- Commodity Exchange Act Registered Entities
- Accounting Firms
- Public Utilities
- Financial Market Utilities
- Pooled Investment Funds
- Tax Exempt Entities
- Entities Assisting Tax Exempt Entities
- Subsidiaries of Certain Tax-Exempt Entities
- ***Inactive Businesses***

# What's an Inactive Business?


- "Inactive entities" are entities that:
  - Were in existence before January 1st, 2020.
  - Are not engaged in active business.
  - Have no ownership held by a foreign person.
  - Have had no change in ownership in the last 12-month period
  - Have not sent or received funds over $1,000 within 12-month period.
  - Do not hold any type of assets.
- A business must meet all these requirements to be "inactive."

# I’m Getting a Bad Feeling…

- It’s starting to look like my accounting practice falls under this CTA thing…
- Yep, you got it.

# Company Info

- The reporting company must provide the following information:
  - Company legal name and alternate names such as a trade name or DBA.
  - Company street address.
  - Jurisdiction of formation or registration in the case of a foreign reporting entity.
  - A taxpayer identification number (TIN)/employer identification number (EIN) of FinCEN ID number.

# Company Applicant Info

- Company applicants must provide the following:
  - Full Legal Name
  - Address (Business or Residential)
  - Date of Birth
  - ID Number from an Acceptable ID Document
  - Name of the State/Jurisdiction that Issued the Document
- Note that a company applicant who provides such services regularly might want to obtain a FinCEN identifier.

# Acceptable ID…?

- A non-expired:
  - Passport issued by the U.S.
  - ID issued by a state, local government or Indian tribe.
  - Driver's license issued by a state.
  - Passport issued by a foreign government if the other documents are not available.
- Documents will be scanned into the FinCEN system.
- You will need a scanner!

# Beneficial Owner Information

- Beneficial owners must provide the following:
  - Full Legal Name
  - Date of Birth
  - Current Residential Address
  - ID number from an acceptable ID document or FinCEN ID number.

# Due Dates

- Entities registered with state officials after December 31, 2023, have 30 days after registration to file with FinCEN.
- Entities already in existence as of January 1, 2024, have a whole year to file, until January 1, 2025.
- Updates and corrections must be made within ~~30~~ 90 days of discovery.

# Penalties

- The civil penalty is $500 for each day a violation continues or has not been fixed.
- Criminal penalties can result in a fine up to $10,000 and imprisonment for up to two years, or both.

# Check Out the Website

- https://www.fincen.gov/boi
- *Included only as a resource for use.*

# Questions?

# Thank you for being with us today!