



RICHMOND BROTHERS

Surprising News About the New Statute of Limitations for Missed RMDs and Excess IRA Contributions Richmond Refreshers October 2024 “Closed Captions”

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Hi, I'm Dan Vredevelde, Certified Financial Planner and Senior Financial Advisor with Richmond Brothers.

We recently heard some news from our friends at Ed Slott and Company, and we thought this was important to share to our amazing community. While this is technical information that will be right up some of your alleys, for others it may even be a *bit too* many details. The big picture here is we wanted to share to let you know that we have resources and deep knowledge regarding RMDs and IRAs.

So, A big change made by the SECURE 2.0 Act of 2022 was adding a new statute of limitations for the IRS to assess penalties for missed required minimum distributions, or RMDs, and excess IRA contributions. On its face, it looks like the new statute of limitations is 3 years for the missed RMD penalty and 6 years for the excess contribution penalty. But looks can be deceiving. In fact, for most of you, the new lookback period will be 6 years for both penalties.

The penalty for a missed RMD used to be 50% of the amount not taken. SECURE 2.0 reduced this penalty to 25%, and down to 10% if the missed RMD is timely corrected. This change was effective beginning in 2023. But the IRS can excuse this penalty if you ask for a waiver. To do so, you must take the missed RMD and file Form 5329 with the IRS explaining that the RMD shortfall was due to reasonable error.

An excess IRA contribution is a contribution that exceeds the amount you can contribute to your IRA or Roth IRA in a year (for example, making a Roth contribution when your income is too high or rolling over an RMD.) The penalty for an excess contribution is 6% for each year the excess amount stays in your account as of December 31. There is no penalty if you correct the excess contribution by October 15 of the year after the year for which you made it. The IRS cannot waive this penalty, unlike the penalty for a missed RMD.

Before 2022, most people had no statute of limitations protection, and the IRS could go back indefinitely to assess both penalties. In SECURE 2.0, Congress tried to remedy this by providing new lookback periods for both penalties.

In a recent Tax Court decision, [Conturier v. Commissioner](#), the Court ruled that the new 6-year statute of limitations for the excess IRA contribution penalty is not retroactive. Although the Court did not address retroactivity of the 3-year missed RMD penalty statute of limitations, the decision almost certainly applies to that penalty as well. This means there will continue to be no statute of limitations protection for either penalty for years before 2022.

For 2022 and subsequent years, the lookback period for the missed RMD penalty for most of you is actually 6 years – *not 3 years*. The only way to keep a 3-year lookback period for any year is to file Form 5329 with the IRS each year, indicating that no penalty is owed for that year and attach enough information to the form to show the IRS why you believed there was no missed RMD for that year. (This is sometimes called “zero-filing.”) But very few people will go to all the trouble to do this. Anyone who does not will wind up with a 6-year lookback if the IRS hits them with a missed RMD penalty.

For 2022 and future years, the lookback period for the excess IRA contribution penalty starts out at 6 years. The only way to get that down to 3 years is to use the zero-filing strategy and provide the backup

documentation showing why there was no excess contribution for that year. Once again, this is not something many people are willing to do.

The bottom line here is that Whether you miss an RMD or make an excess IRA contribution, if you do not fix it, the IRS will have 6 years to come after you.

Again, I know this is quite technical information and RMDs cause headspins for even the smartest people! To discuss your personal situation with RMDs, IRA contributions or learn more about creating your unique retirement plan, contact our office to schedule a time to visit.

Richmond Brothers is here to help you make sense of your financial world.

If you have any thoughts you'd like to share, please makes sure to do so in the comments below. Thank you for listening and make it a great day!

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