

Recent Developments in Federal Income Taxation

Bruce A. McGovern

Professor of Law and Director, Tax Clinic
South Texas College of Law Houston
Houston, Texas

University of Texas Taxation Conference
December 14, 2023

1

II. Business Income and Deductions

2

Prevailing Wage and Apprenticeship Requirements Proposed Regulations (8/30/23)

Outline: item D.3.b, page 11

- Inflation Reduction Act (Aug. 2022)
 - Amended several Code provisions and enacted others that authorize tax credits (or deductions)
 - Examples:
 - Deduction (§ 179D) for making commercial buildings energy efficient
 - Credit (§ 45L) for contractors building and selling energy-efficient homes
 - Generally, the credit or deduction is 5 times the normal amount if prevailing wage and apprenticeship requirements are satisfied
- Notice 2022-61 (11/30/22): provides initial guidance on PWA requirements
- Proposed regulations: 88 F.R. 60018 (8/30/23):
 - State that, generally, taxpayer satisfies prevailing wage requirement by ensuring laborers and mechanics employed are paid at rates not less than those set forth by Department of Labor
 - Permit taxpayers to cure failure to satisfy PWA with a penalty
 - Provide guidance on types of records needed to demonstrate compliance with PWA requirements

3

IV. Compensation Issues

Proposed Regulations on RMDS (2/24/22)

No More Stretch RMDs from Non-Spousal Inherited Retirement Accounts

Outline: item B.2, page 15

- A provision of the SECURE Act, Division O, Title IV, § 401 of the 2020 Further Consolidated Appropriations Act, amended Code § 401(a)(9)(E)
- Modifies the required minimum distribution (RMD) rules for inherited retirement accounts (defined contribution plans and IRAs).
- Requires all funds to be distributed by the end of the 10th calendar year following the year of death.
 - There appears to be no requirement to withdraw any minimum amount before that date.
- Current rules, which permit taking RMDs over many years, continue to apply to certain designated beneficiaries, including surviving spouses, children of the participant who have not reached the age of majority, and those not more than 10 years younger than the deceased individual.
- Applies to distributions with respect to those who die after 12/31/19.

5

Proposed Regulations on RMDs (2/24/22)

87 F.R. 10504

Outline: item B.2, page 15

- These proposed regulations update existing regulations to address the changes made by the SECURE Act as well as several other statutory changes.
- The proposed regulations adopt an interpretation of the 10-year rule that appears to differ from the plain language of the statute and from the interpretation of the legislation by most advisors.
- “For example, if an employee died after the required beginning date with a designated beneficiary who is not an eligible designated beneficiary, then the designated beneficiary would continue to have required minimum distributions calculated using the beneficiary’s life expectancy as under the existing regulations for up to nine calendar years after the employee’s death. In the tenth year following the calendar year of the employee’s death, a full distribution of the employee’s remaining interest would be required.”

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Recent Developments in Federal Income Taxation

First appeared as part of the conference materials for the
71st Annual Taxation Conference: Day 2 - Focus on Tax Controversy session
"Recent Developments"