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Opinion: The days of IRS forgiveness for RMD mistakes may soon be over

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Did you forget to take your RMD? You can beg forgiveness...but maybe not for much longer



New rules are going into effect in 2023 that could make the IRS less accommodating. GETTY IMAGES/ISTOCKPHOTO



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Katie St. Ores has a 100% track record of getting her tax clients out of paying the steep penalty for missing a required minimum distribution from their retirement funds. That amounts to only two households getting forgiveness, but it represents a lot of dollars, because the fee for any sort of mistake with RMDs is 50% of what's missing, which could be tens of thousands of dollars.

Now's the time to make things right if you forgot to make your RMD payment by Dec. 31 for 2022, paid the wrong amount or realized you got it wrong in a past year. The faster you correct it, the more likely the IRS is likely to waive the fines — and your chances are good overall, despite the agency's stern reputation.

Beware, though, that new rules are going into effect in 2023 that could make the IRS less accommodating. For one thing, the age to start RMDs is going to 73 this year, and then 75 in 2033, which means the government is going to be hungry for the missing revenue. Even more important, the penalty will be reduced to 25% — or 10% if you're really quick about reporting it.

The IRS doesn't publicly track how many people miss or make mistakes with their RMDs, but financial advisers and tax professionals say it happens often enough, and they consider the IRS to be quite liberal about granting waivers.

St. Ores, who is a financial adviser and tax preparer based in McMinnville, Ore., thinks the IRS has responded generously so far because they know the rules are complex and mistakes happen.

"They know people are getting up there in age, and so they've probably said up to now, let's just grant it," says St. Ores.

But the new penalties seem worded to avoid waivers in the future, especially because of the extra reduction to 10% if you act to quickly correct mistakes. Up to now, the IRS has taken pains to point out how to ask for a forgiveness on its website, but now there will be new emphasis on the lower penalties.

"The 50% penalty effectively 'scared' taxpayers to withdraw RMDs, so reducing the penalty could reduce the fear of additional tax, leading to more taxpayers missing their RMDs," says St. Ores.

"Between more taxpayers that potentially neglect to take their RMDs because of a not-as-high penalty and confusion over the current required age, the IRS will probably collect more taxes overall."

What to do about past mistakes

There are a lot of different ways to mess up your required minimum distributions. The amount you're supposed to pay is calculated according to a formula that takes your account balance of all your qualified tax-deferred accounts and multiplies it by a factor related to your age.

When you get started taking the money out, it works out generally to about 4% of the account value. You keep taking RMDs every year from your designated start time until the accounts are empty (or you die). The beginning age in the past was 70½, then it moved to 72, and now it's changing to 73.

"These things can get complicated," says [Isaac Bradley](#), director of financial planning at Homrich Berg, an investment firm based in Atlanta. He advised one couple that accidentally took the distribution from the wrong spouse.

Another easy mistake is taking the wrong amount because of a math error. Sometimes, the problem is just about communication, because people tend to have multiple 401(k)s at old employers or several rollover IRAs that aren't consolidated. The adviser helping make the calculations might not know of an account held at a different custodian, and that could throw off the whole equation.

David Haas, a financial adviser and president of [Cereus Financial Advisors](#), based in Franklin Lakes, N.J., has had to help family members correct RMDs, mostly having to do with inherited IRA accounts.

"You're supposed to take RMD for the person who died, if they didn't already take it," he says, but a lot of people miss those in the confusion of grief.

Then once you inherit the account, you have to take RMDs over a 10 year period to empty the account.

"With one relative, she just kept on missing it and that was her fault. She didn't realize what she was supposed to do. People don't know the law, and it's very confusing," Haas says.

The first step is realizing you made a mistake, and then once you know that, pay the amount that's missing. You need to file a special form with the IRS for the tax year in question ([Form 5329](#)), which you can send in at any point — you don't have to wait until you file your next tax return.

If you want to ask for a waiver, you need to attach a letter explaining the mistake. If your request is not granted, then you pay the penalty.

While the process isn't excessively complicated, you might want to consult with a tax professional to make sure you're not making more mistakes in calculating the amount that's missing. It could turn out to be a lot of paperwork if you have missed multiple years.

[Kenneth Waltzer](#), a financial planner based in Los Angeles, had a client who did not realize he had inherited an IRA and missed the RMDs on it for five years. "He ignored emails about it," says Waltzer. "When he came to us, it added up to over \$100,000."

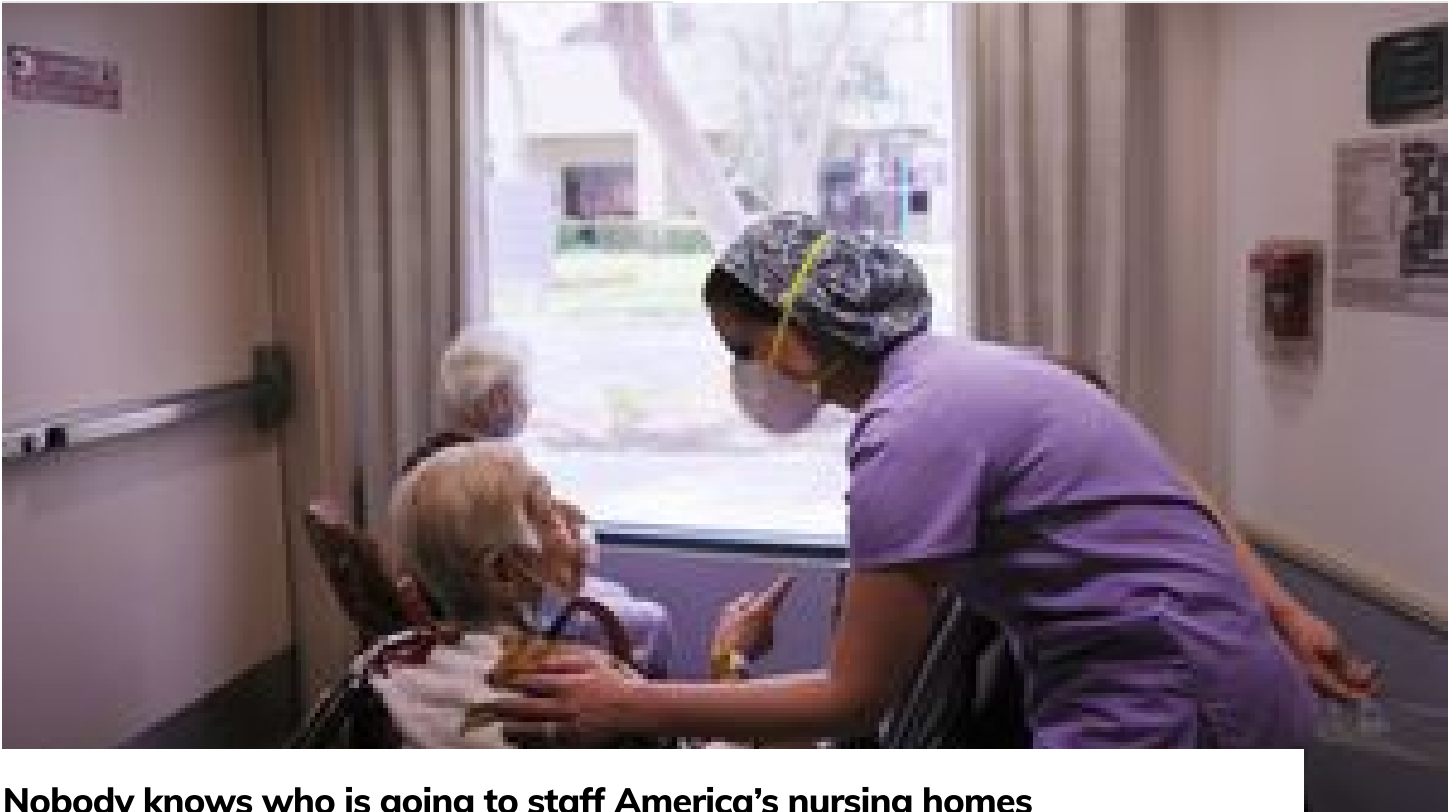
For Katie St. Ores, the message going forward is going to be: Get it right the first time. Forgiveness may not be so easy to come by in the future. "I'm trying to stay on top of my clients taking their RMDs on time," she says.

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Beth Pinsker is an investing columnist at MarketWatch. She has been a certified financial planner (CFP®) since 2018. Previously, she was a personal finance columnist and editor at Reuters, an editorial director at Fidelity and editor-in-chief of Walletpop.com. Prior to covering personal finance, she was a film critic and entertainment business reporter, writing for Entertainment Weekly, The Dallas Morning News and many more publications. You can follow her on Twitter @bethpinsker.