"Your Estate Matters"

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Legal-ease

THE SECURE ACT

The Setting Every Community Up for Retirement Enhancement (SECURE) Act, signed into law by President Trump on December 20, 2019, is quite lengthy so this article is just a "CliffsNotes" version.

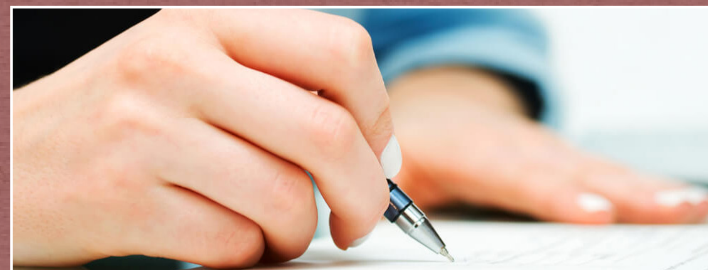
Let's get the WORST part of the Act out of the way first. For most of us, the SECURE Act now takes away our ability to "stretch" out the distributions, over our lifetimes, of the IRAs we inherited from those that have died on or after, January 1, 2020. The SECURE Act now mandates that the entire IRA must be "emptied out" within ten (10) years after the date of death of the original owner. How and when the beneficiary pulls the money out is now entirely up to them: take no distributions until the last day ten years later and pull out the entire balance in a lump sum, take it all out on day one, or pull it out monthly over 120 months…it's all up to you. As you can imagine, this is surely a boon for the IRS, it's projected to bring in $15.7 billion (yes, that's a "B") of new tax revenue over the next ten years!

Many people are now concerned with the repercussions of a trust being the present beneficiary of their IRA. For the vast majority of our clients, this isn't an issue because the Trustee retains the power to decide what to do with the IRA over the 10-year period. The trust provisions that would cause concern are those that would limit the Trustee's power to take only the "required minimum distributions" (this would be a rare provision for my clients). This is because under the new 10-year rule, unless you are an "eligible designated beneficiary" (explained below), there are no more "required minimum distributions". The problem for trusts with this provision is that it would cause the Trustee to be unable to access any of the IRA money for the beneficiary until the end of the 10 period. This could be a very dangerous provision for a beneficiary who would need access to these funds during that 10-year term!

There are five beneficiary exceptions to the mandatory 10-year rule, now called "eligible designated beneficiaries": 1) surviving spouses (they are still allowed to treat it as "inherited" or as their own), 2) minors (however once they reach age 18 it must then be pulled out over 10 years, so the maximum deferment is to age 28), 3) disabled individuals (special needs beneficiaries), 4) the chronically ill (which is medically defined), and 5) a beneficiary who is not more than ten (10) years younger than the original owner.

The rest of the SECURE Act is the BEST of it:

- The age for when you must begin taking Required Minimum Distributions (RMD) from your IRA has been raised to 72 (from 70.5).



- If you are still working, even if age 72 or older, you may still contribute to your IRA.
- Someone under age 59.5 may now pull out up to $5,000 (lifetime limit) from their 401k or IRA, penalty-free, to help offset the costs of a new birth or adoption of a child.
- As to 529 college savings plans, the Act now allows these funds to be used for "apprenticeship" programs, and up to $10,000 can be used toward student loan repayments.
- The Act repeals the unfavorable "Kiddie Tax" rate hike implemented in 2018.
- Beginning in 2021, part-time workers can participate in their employers' 401k plans.
- Qualified Charitable Deductions (QCDs) can still be made to charities from your IRAs at age 70.5 (not 72), a unique opportunity here that I think fell through the cracks.
- Annuities are now allowed to be used in 401k plans.
- A new tax credit for employers who automatically enroll their workers into their retirement plans.

I plan on posting some videos that will go into more detail regarding the new SECURE Act rules on my Facebook page and we will be scheduling a "live" seminar for the clients of our firm. Please follow us on Facebook for more information.

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