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Trusts & Estates
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SECURE Act: How It Will Affect You and the Beneficiaries of Your Retirement Accounts

On December 20, 2019, President Trump signed the Setting Every Community Up for Retirement Enhancement Act (**SECURE Act**). The **SECURE Act** became effective January 1, 2020. The Act is the most impactful legislation affecting retirement accounts in decades.

*The **SECURE Act***

The **SECURE Act** has several positive changes: It increases the required beginning date (RBD) for required minimum distributions (RMDs) from your individual retirement accounts (IRAs) from 70 ½ to 72 years of age (for those who have not attained age 70 ½ by January 1, 2020), it eliminates the age restriction for making contributions to qualified retirement accounts and it allows early withdrawals of up to $5,000 from a retirement account without a penalty in the event of a birth or an adoption. The most significant change however will affect the beneficiaries of your retirement accounts: The **SECURE Act** eliminates the ability to "stretch" withdrawals from IRAs over the beneficiary's life expectancy. Instead, it requires most beneficiaries to withdraw the entire balance of an inherited retirement account within ten years of the account owner's death.

The **SECURE Act** does provide a few exceptions to this new mandatory ten-year withdrawal rule. Beneficiaries who are: (1) spouses, (2) beneficiaries who are not more than ten years younger than the account owner, (3) the account owner's children who have not reached the "age of majority," (4) disabled individuals, and (5) chronically ill individuals, are not restricted to this mandatory ten year withdrawal period. Thus, proper analysis of your estate planning goals and planning for your intended beneficiaries' circumstances are imperative, now more than ever, to ensure your estate planning goals are met.

Under the **SECURE Act**, the new shorter ten-year time frame for taking distributions will result in the acceleration of income tax due for most beneficiaries, possibly causing your beneficiaries to be bumped into higher income tax brackets, thus reducing the amount received from the retirement account than you may have originally anticipated.

Your estate planning goals likely include more than just tax considerations. You might be concerned with protecting a beneficiary's inheritance from their creditors, future lawsuits, and a divorcing spouse. Therefore, it is important to review your overall estate plan at this time.

Review / Amend Your Revocable Living Trust (RLT) or Standalone Retirement Trust (SRT)

Depending on the value of your retirement account, we may have addressed the distribution of your accounts in your **RLT**, or we may have created an **SRT** that would handle your retirement accounts at your death. Your trust may have included a "conduit" provision, and, under the old law, the trustee would only distribute required minimum distributions (RMDs) to the trust beneficiaries, allowing the continued "stretch" based upon their age and life expectancy. A conduit trust protected the account balance, and only RMDs--much smaller amounts--were vulnerable to creditors and divorcing spouses. With the **SECURE Act's** passage, a conduit trust structure will no longer work for most beneficiaries because the trustee will be required to distribute the entire account balance to a beneficiary within ten years of your death. Since many of our clients' trusts are designed as "conduits" for the transfer of the RMD we highly recommend that you contact us to discuss the benefits of an "accumulation trust," an alternative trust structure through which the trustee can take any required distributions and continue to hold them in a protected trust for your beneficiaries.

Use of Trusts

For most Americans, a retirement account is the largest asset they will own at the time of their respective death. If you have not already named a trust as a beneficiary of your retirement accounts, we recommend that you consider doing so now. If you do not have a trust to name we can assist you in creating one. While many accounts offer simple beneficiary designation forms that allow you to name an individual or charity to receive funds when you die, such form alone may not be flexible enough to designate a trust as a beneficiary. A trust can be a great tool to address the mandatory ten-year withdrawal rule under the new Act, providing continued protection of a beneficiary's inheritance. <u>The use of a trust is especially necessary if any of your named beneficiaries are deemed to be disabled and are receiving government benefits</u>.

Review Beneficiary Designations

With the changes to the laws surrounding retirement accounts, now is a great time to review and confirm your retirement account information. <u>Whichever estate planning strategy is appropriate for you, it is important that your beneficiary designation is completed correctly</u>. If your intention is for the retirement account to be distributed to a trust for a beneficiary, the trust must be properly named as the primary beneficiary. Furthermore if you want the primary beneficiary to be an individual, he or she must be specifically named and of course you should always have one or more named contingent beneficiaries as well.

Other Ideas

Although this new law may be changing the way we think about retirement accounts, we are here and prepared to help you properly plan for your family and protect your hard-earned retirement accounts. If you are charitably inclined, now may be the perfect time to review your planning and possibly use your retirement account to fulfill these charitable desires. If you are concerned about the amount of money available to your beneficiaries and the impact that the accelerated income tax may have on the ultimate amount, we can explore different strategies with your financial and tax advisors to infuse your estate with additional cash upon your death.

Questions? Concerns? Give us a call today to schedule an appointment to discuss how your estate plan and retirement accounts many be impacted by the **SECURE Act**.

Contact Us

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