

The SECURE Act upends estate plans

The Setting Every Community Up for Retirement Enhancement (SECURE) Act [H.R. 1994] passed the House last year on a bipartisan basis, by a vote of 417 to 3, but then stalled in the Senate. A few Republican Senators objected to unanimous consent for the bill. In December, Congress enacted tax-and-spend legislation that included the SECURE Act, taking effect the first of this year.

The Act includes a number of liberalizations that should promote retirement savings. For example, the prohibition on contributing to a traditional IRA upon reaching age 70½ has been eliminated. Required minimum distributions from IRAs and qualified retirement plans may now be delayed to age 72, rather than age 70½.

To pay for the changes that result in delayed tax collections, the Congress changed the rules rather drastically for inherited IRAs. Under the old rules, one who inherited a traditional or a Roth IRA was allowed to take minimum distributions from the account over his or her lifetime. For example, a 50-year-old could spread the payments out over 34.2 years. If a great-grandchild inherited the account, the payout period could be as long as 80 years! This planning strategy was known as the “stretch IRA,” and it was understandably popular. To assure that the IRA was not invaded prematurely, some people paired the stretch IRA with a trust plan.

The SECURE Act largely eliminates the stretch IRA. The general rule now is that the IRA assets must be distributed over the ten years following the account owner’s death. Exceptions are made for these designated beneficiaries:

- a surviving spouse;
- a minor child or children;
- a disabled beneficiary;
- a chronically ill individual; and
- beneficiaries who are less than ten years younger than the account owner (such as a brother or sister).

The exception for the minor child lasts only until he or she reaches the age of majority, because then the ten-year rule kicks in. For the other categories of designated beneficiaries, the delay in distributions ends at death when a ten-year distribution must begin.

Eliminating the stretch IRA accelerates the taxes on the retirement savings, shortens the deferral period, and it also makes it more likely that the distributions will occur during the beneficiary’s high earning years instead of being delayed until retirement. If a large IRA will be a significant element of your estate, you should consider meeting with your estate planning advisors early this year.

SAMPLE QUESTIONS AND ANSWERS

I turned 70½ in 2019, so am I excused from taking a required minimum distribution now? Or next year? Sorry, the change does not affect you. Only those who turn 70½ in 2020 or later get the benefit of waiting to age 72 for required minimum distributions. You will have to take a minimum distribution for the 2019 tax year (if you haven’t already) as well as the 2020 tax year.

I inherited an IRA three years ago from a parent and have been taking minimum distributions over my lifetime. Does that have to change now, do I take the rest over ten years? Good news, the new law does not affect you. IRAs inherited from those who died after December 31, 2019, are the ones affected by the new law.

My children are adults, but my grandchildren are not. Can they get the benefit of waiting until they reach their majority for the ten-year rule to apply? Sorry, no. The exception only is for minor children of the account owner, not grandchildren, nieces, or nephews. These more remote relatives will need to withdraw everything from the account over ten years.

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