

SECURE ACT IMPACTS RETIREES AND SAVERS

By Tom Bassett, J.D., CPA

The president signed into law late last year the SECURE Act, which stands for “Setting Every Community Up for Retirement Enhancement,” a significant piece of legislation that makes sweeping changes affecting many retirees and savers.

Note that many estate plans contain provisions related to retirement accounts and have references to “required minimum distributions (RMDs)” – these plans should be reviewed to ensure that the SECURE Act’s changes to those rules don’t have an unexpected impact on your plans.

HERE IS A QUICK REVIEW OF WHAT THE SECURE ACT DOES:

1. Expands the ability of small employers to band together to offer 401(k) plans – which some don’t offer due to high compliance costs. The bill allows multiple employers to spread the cost of one plan across a larger base of assets/accounts.
2. Expands investment options inside 401(k) plans to make it more likely to have annuity options inside a plan.
3. Changes the age for “required minimum distributions” from IRAs and 401(k) from the current 70½ to age 72.
4. Permits persons over age 70½ to make contributions to a traditional IRA.
5. Provides a tax credit to certain smaller employers to encourage automatic enrollment into their retirement plan.
6. Adds a new exemption from the 10% penalty tax for withdrawals connected to a ‘qualified birth or adoption’.
7. Requires that defined contribution plans (most 401(k) plans and 403(b) plans) deliver a “lifetime income disclosure” to participants at least once every 12 months – to help people understand and plan for retirement.
8. Makes significant changes to “stretch IRAs,” causing many inherited IRAs to terminate after only 10 years after the death of the original IRA owner.

A summary chart of some of the impact the SECURE Act makes to IRA planning accompanies this commentary. Now may be the time to sit down with your attorney and advisor to consider the impact the SECURE Act rule changes may have on your plans.

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SUMMARY OF CERTAIN CHANGES TO INDIVIDUAL RETIREMENT ACCOUNTS ("IRAS") ENACTED AS PART OF THE "SECURE ACT OF 2019"

ACCOUNT OWNER STILL ALIVE		
	Before January 1, 2020	After December 31, 2019
Required Beginning Date	April 1st of the calendar year following the later of (a) the calendar year in which the employee attains age 70½ or (b) the calendar year in which the employee retires.	April 1st of the calendar year following the later of (a) the calendar year in which the employee attains age 72 or (b) the calendar year in which the employee retires.
Currently in Required Minimum Distributions (RMD) status before 1/1/2020	Continue RMD to those who were already age 70½ by 12/31/19 - no change.	Effective Date: distributions required to be made after December 31, 2019 with respect to individuals already in RMD status prior to 1/1/20 and who attain age 72 after 12/31/19.
Contributions	Not allowed after attaining age 70½.	Allowed after age 70½, if there is earned income.
Qualified Charitable Distributions (QCDs)	Allowed after attaining age 70½. The distribution can cover the RMD for the live owner up to \$100,000.	Still allowed after attaining age 70½ even though there may not be a RMD until age 72. The maximum is still \$100,000.
ACCOUNT OWNER DECEASED		
	Before January 1, 2020	After December 31, 2019
Required Distributions to individuals inheriting an IRA from an IRA owner		
Spouse:	Spouse may treat the account as their own and may roll the balance into their own IRA.	No change.
Non-Spouse:	Descendants of the owner had the ability, under certain restrictions, to take distributions using their individual life expectancy (the "stretch IRA"). If not, then required to be fully distributed within 5 years.	Required 10-year payout unless one of the exceptions below apply. Balance of IRA must be zero as of 12/31 of the 10th year after death of IRA owner. No 5-year rule for post 2019 deaths of IRA owners.
New Law exceptions to Non-Spouse: Minors (under age of majority or while a student)	N/A	A child of the owner who has not yet attained the age of majority may take distributions using their individual life expectancy, until they attain the age of majority.
New Law exceptions to Non-Spouse: Minors after attaining age of majority	N/A	After attaining the age of majority, any remaining balance must be distributed within 10 years after that date. IRA balance must be zero as of 12/31 of the 10th year after majority reached.
New Law exceptions to Non-Spouse: Disabled or Chronically ill Beneficiary	N/A	Disabled and chronically ill individuals may take distributions using their individual life expectancy. No 10-year rule for these recipients.
New Law exceptions to Non-Spouse: Beneficiary not more than 10 years younger than Owner	N/A	Any individual not listed above who is not more than 10 years younger than the account owner may take distributions using their individual life expectancy.
Beneficiary over 70½	Can make a Qualified Charitable Distribution.	No change. Still can make a Qualified Charitable Distribution if over 70½.

Caution - many trusts contain language to treat the beneficiaries as owners of an IRA owned by the trust in order to use the life expectancies of those individuals for calculation of Required Distributions.

In many cases, these "conduit trusts" will no longer act as intended should the IRA owner die after 2019 leaving funds in an IRA owned by a trust with non-spouse descendants who have attained the age of majority.



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ABOUT THE AUTHOR



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Tom has managed the East region tax team for Commerce Trust Company since joining in 2012. He is responsible for the services his department provides to clients of Commerce Trust in the St. Louis, Springfield, Belleville, Peoria, and Bloomington offices. In addition to tax planning and consulting services to that client base, his group annually prepares more than 120 returns for charitable trusts and private foundations and more than 350 returns for individual, estate, gift, trust, and partnership clients of Commerce Trust. Tom also co-manages Commerce Trust's annual tax return preparation process, including reviewing and maintaining Commerce Trust's accounting system and the integration of this system with the organization's external vendor. Tom attended Washington University in St. Louis, earning two bachelor of arts degrees in physics and psychology, a juris doctorate, a master of business administration, and a master of science in business administration. He is a member of the Missouri Society of Certified Public Accountants, the American Institute of Certified Public Accountants, the Missouri Bar Association, The Bar Association of Metropolitan St. Louis, the American Association of Attorney-Certified Public Accountants, and the Estate Planning Council of St. Louis. Tom has chaired the audit, investment, and budget subcommittees of the Finance Committee of The Bar Association of Metropolitan St. Louis for several years.



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