

The New SECURE Act

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The Setting Every Community Up for Retirement Enhancement (“SECURE”) Act was enacted on December 20, 2019 and went into effect on January 1, 2020. Among other changes to laws pertaining to retirement accounts, the Act makes multiple changes to the minimum distribution rules for individual retirement accounts and other retirement assets, raises the age cap for contributing to retirement accounts, and severely limits the use of so-called “stretch-IRAs” by the beneficiaries after the owner’s death.

This last change is likely to have the most impact on most of our clients, because it removes the ability to “stretch out” payments from retirement assets over a beneficiary’s lifetime. Under the new rules, for all but a few types of beneficiaries, complete payout is required within ten years of the owner’s death.

In other words, Congress, through the SECURE Act, has radically altered the income tax result of owning retirement assets (IRAs, Roth IRAs, 401(k)s, Roth 401(k)s, 403(b)s, etc.) at death, and has significantly devalued those assets on an after-tax basis by requiring distributions and recognition of income to occur sooner.

This means that every person who holds a significant portion of his or her net worth in retirement assets should, at a minimum, re-evaluate how the beneficiary designations on those assets are set up.

Some of the potential responses to the change include:

- Naming multi-generational “spray” trusts as beneficiaries of retirement assets, to both maximize creditor protection available and spread the associated income amongst the beneficiaries;
- Moving away from naming so-called “conduit trusts” as beneficiaries of retirement assets, because such trusts will likely result in sub-optimal income tax and asset protection results;
- Naming charities as beneficiaries of retirement assets;
- Converting additional assets to Roth IRAs;
- Naming more individuals as beneficiaries of retirement assets;
- Naming certain charitable remainder trusts as beneficiaries, to both satisfy charitable intentions and obtain superior income tax results for family beneficiaries; and/or
- Naming one’s children as beneficiaries (rather than a spouse), under specific circumstances.

We encourage you to contact your trusted advisors (e.g., estate planning attorney, accountant, financial planner) to see how this important new Act may affect your individual circumstances.

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