

Secure Act Will Impact Your Retirement Savings

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On December 20, 2019, President Trump signed into law the Setting Every Community *Up* for Retirement Enhancement (“SECURE”) Act with an effective date of January 1, 2020. The new legislation is mainly intended to expand opportunities for individuals to increase their retirement savings. It also includes one major change that accelerates post death required minimum distributions.

Expanded Opportunities

New age 72 start date for required minimum distributions from IRAs and retirement plans which means that individuals will be allowed to let retirement funds grow for an extra year and a half before the individual must begin taking distributions.

The SECURE Act repeals a rule that prohibited contributions to a traditional IRA by taxpayers who are age 70 ½ and older. This change may affect individuals who make qualified charitable contributions from retirement plans.

Part-time workers are now eligible to participate in their employer’s 401(k) plan. The SECURE Act guarantees 401(k) plan eligibility for employees who have worked at least 500 hours per year for at least three consecutive years provided the employee is 21 years of age by the end of the three-year period.

The SECURE Act allows plan participants or IRA owners to take out up to \$5,000.00 following the birth or adoption of a child without paying the usual 10% early withdrawal penalty if taken within one year of the child’s birth or the adoption’s finalization.

The SECURE Act requires 401(k) plan administrators to provide an annual “lifetime income disclosure statement” to plan participants. This provision is designed to address the problem of 401(k) plans and IRAs where the employee and participant know how much they have accumulated but have no idea how long the money will last if they were to retire. This novel provision does not require disclosures until one year after the IRS issues final rules and creates model disclosure statements.

Death Knell for “Stretch IRAs”

Under the new rules effective with respect to most retirement plan participants and IRA owners who die after December 31, 2019, a designated plan participant or beneficiary must withdraw the entire account balance no later than ten years after the death of the plan participant or IRA owner. The restrictive new rules are not applicable to a designated beneficiary who is a spouse, a minor beneficiary, a disabled or chronically ill beneficiary, beneficiaries with special needs, or a beneficiary within ten years of age of the plan participant or IRA owner.

For example, if we assume a single taxpayer with a \$2,000,000.00 IRA designates his 55-year-old son as the beneficiary, the son will need to withdraw the funds within ten years after the death of the IRA owner. If the funds are withdrawn pro rata, the son will need to withdraw \$200,000.00 per year. Under the old rules, the period of withdrawal was measured by the son’s life expectancy of approximately 29 years, which resulted in a distribution of approximately \$68,966 in the first year instead of \$200,000.00, with the balance of the IRA account continuing to grow tax deferred.

The new ten-year distribution rules apply to Roth IRAs as well, but the distributions will remain tax-free. The new rule also applies if the beneficiary is the estate or if there is no beneficiary designation, in which case the new ten-year rule applies rather than the old five-year default rule.

Planning Opportunities

If a trust has been designated as the beneficiary of a retirement account, it is important to review the terms of the underlying trust agreement. Under the old stretch rules a “conduit” trust was the preferred method. With the new ten year cap on distributions, it may be now advisable to amend a conduit trust so that it is structured as an “accumulation” trust.

Other planning opportunities to consider include the use of a charitable remainder trust to generate longer streams of income, making Roth IRA conversions and splitting primary beneficiaries of retirement accounts.

To discuss any of the above, please contact any of our Business attorneys:

Jack P. Baron	(973) 228-6781	jbaron@lumlaw.com
Edward M. Callahan, Jr.	(973) 228-6748	ecallahan@lumlaw.com
Steven J. Eisenstein	(973) 228-6815	seisenstein@lumlaw.com
Kevin F. Murphy	(973) 228-6777	kmurphy@lumlaw.com
Dennis J. Smith	(973) 228-6755	dsmith@lumlaw.com

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Tel: (973) 403-9000 | Fax: (973) 403-9021 - www.lumlaw.com