Reinhart

SECURE ACT: What It Is and How It Could Impact You

Feeling a little insecure about the SECURE Act? You're not alone. On December 20, 2019, President Trump signed the "Further Consolidated Appropriations Act, 2020" into law. While the legislation largely authorizes appropriations to fund the Federal government through September 30, 2020, it also implements the "Setting Every Community Up for Retirement Enhancement Act" or the "SECURE Act." Because the SECURE Act impacts individual income, estate, financial, and retirement planning, many people are scrambling to understand the intricacies of the new law and the possible consequences it may have on their families. This newsletter summarizes some of the major changes found in the SECURE Act, discusses the ways that it may significantly impact your estate planning, and provides new planning opportunities to consider in light of the recent legislation. If you would like to learn more about how this major retirement reform may affect your individual situation, contact your Reinhart attorney or a member of Reinhart's Trusts and Estates team.

Summary of Major Changes

1) **Elimination of Age Restriction on Traditional IRA Contributions**. Prior to the SECURE Act, individuals could not contribute to a traditional IRA after age 70½. Effective as of January 1, 2020, the SECURE Act eliminates this age restriction entirely so that individuals can continue contributing to a traditional IRA as long as they have earned income. Note that the SECURE Act does not impact Roth IRAs, as there was no age limitation for contributions to a Roth IRA before the SECURE Act was enacted.

2) **New Required Beginning Date for Withdrawals**. Under previous law, individuals were required to start withdrawals from their retirement accounts at age 70½. In recognition of the fact that Americans are living and working longer, the SECURE Act increases this beginning date to age 72. This change is only effective for those individuals who attain age 70½ after December 31, 2019.

3) **Early Withdrawal Penalty**. A retirement account owner generally cannot take distributions prior to attaining age 59½ without incurring a penalty. There are exceptions for substantial medical expenses, as well as up to $10,000 for a first-time home purchase. The SECURE Act adds another exception to the early withdrawal penalty – an account owner can withdraw up to $5,000 within 1 year

POSTED:

Jan 9, 2020

RELATED PRACTICES:

Employee Benefits
https://www.reinhartlaw.com/practices/employee-benefits

Tax
https://www.reinhartlaw.com/practices/tax

Trusts and Estates
https://www.reinhartlaw.com/practices/trusts-and-estates

RELATED SERVICES:

Family Office Services
https://www.reinhartlaw.com/services/family-office-services

Federal Tax Planning
https://www.reinhartlaw.com/services/federal-tax-planning

Succession Planning
https://www.reinhartlaw.com/services/succession-planning

Trust Services
https://www.reinhartlaw.com/services/trust-services

Family-Owned Business
https://www.reinhartlaw.com/services/family-owned-business

Charitable Contributions and Planning
https://www.reinhartlaw.com/services/charitable-contributions-and-planning

Estate Planning
https://www.reinhartlaw.com/servic

of the birth or adoption of a child. This change applies to births and adoptions occurring after December 31, 2019.

4) **Elimination of the "Stretch Payout" For Inherited Accounts**. Prior to the SECURE Act, an individual non-spouse beneficiary of a retirement account generally could receive the funds in the account in one of four ways – a) as a lump sum; b) over a 5-year period; c) over the decedent's life expectancy; or d) over the beneficiary's life expectancy (the "stretch payout"). The stretch payout was the most beneficial option from an income tax perspective, as it allowed the beneficiary to minimize the income tax in a given year and enjoy tax-deferred growth for years (and sometimes decades). Spouse beneficiaries were afforded the same options in addition to the ability to "rollover" the account to his or her own retirement account. The SECURE Act makes major changes to these options. Generally, a beneficiary of a retirement account is now required to receive the funds in the account by December 31st of the year that contains the 10th anniversary of the account owner's death (the "Liquidation Date"). This is true except as to a surviving spouse, minor children of the decedent, disabled and chronically ill individuals, and individuals who are not more than 10 years younger than the decedent. These groups of individuals can still opt for a stretch payout, however, the 10-year rule begins when a minor child reaches the age of majority (unless the child is pursuing a "specified course of education," in which case the age of majority can be delayed until age 26). In addition, the SECURE Act did not make changes to the options available to "non-designated beneficiaries," which generally include estates, charities, and certain trusts. The payout options for this category of beneficiaries remains unchanged – a) over the decedent's life expectancy (if the decedent was age 70½ or older); or b) over a 5-year period (if the decedent died prior to age 70½). The acceleration of the account distributions for most beneficiaries will inevitably mean that many will have higher tax bills under the new law. This change is effective for beneficiaries who receive inherited accounts from individuals dying after December 31, 2019.

Impacts on Estate Planning/Planning Opportunities

1) **Beneficiary Designations**.

a) Naming grandchildren as beneficiaries of a retirement account will undoubtedly become less attractive. With the elimination of the stretch payout, much of the income tax benefit of this planning will be lost.

b) Naming a "conduit trust" as a beneficiary of a retirement account could have very negative results. With limited exceptions, a conduit trust is required to

es/estate-planning

[Gift and Estate Tax Audits](https://www.reinhartlaw.com/services/gift-and-estate-tax-audits)
https://www.reinhartlaw.com/services/gift-and-estate-tax-audits

[Retirement Planning/IRA Planning](https://www.reinhartlaw.com/services/retirement-planningira-planning)
https://www.reinhartlaw.com/services/retirement-planningira-planning

RELATED PEOPLE:

[Kelsey L. Berns](https://www.reinhartlaw.com/people/kelsey-berns)
https://www.reinhartlaw.com/people/kelsey-berns

immediately distribute all retirement account distributions received by the trust directly to the trust beneficiary. Prior to the SECURE Act, conduit trusts were popular planning vehicles as they qualified for stretch payout treatment based on the trust beneficiary's life expectancy. As there are no "required" distributions from an inherited retirement account until the Liquidation Date under the SECURE Act, a conduit trust would simply distribute the entire retirement account to the trust beneficiary on the Liquidation Date. Not only could this be disastrous from an income tax perspective, but it might also create major concerns depending on the financial maturity of the trust beneficiary.

c) Designating charities as direct beneficiaries of retirement accounts will likely become more popular. With the elimination of the stretch payout for most beneficiaries, there is less incentive for account owners to name family members as beneficiaries given that those beneficiaries can no longer enjoy substantial tax-deferred growth for years.

1) **Roth IRA Conversions**. Individuals should consider taking advantage of Roth IRA conversions. In a Roth IRA conversion, assets are transferred from a traditional tax-deductible IRA to a non-deductible Roth IRA. Account owners pay income tax on the conversion. However, subsequent distributions from the Roth IRA are tax-free. A series of Roth IRA conversions can be used to spread the conversion tax-bill over multiple years. When the account owner's beneficiaries receive the Roth IRA after death, all distributions are tax-free.

2) **Charitable Remainder Trusts**. One possible way that an account owner could mimic the stretch payout for his or her beneficiaries is by naming a charitable remainder trust as the retirement account beneficiary. A charitable remainder trust provides benefits to a non-charitable beneficiary for a period of time before terminating in favor of a charitable remainder beneficiary. A charitable remainder trust could take a lump distribution of an entire retirement account in year 1 on an income tax-free basis, as a charitable remainder trust is tax-exempt. Then, the charitable remainder trust could spread distributions of the proceeds over a non-charitable beneficiary (such as a child's) lifetime. Upon the child's death, any account proceeds remaining in the charitable remainder trust pass to the charitable beneficiary selected by the account owner. This is an excellent planning opportunity for those account owners hoping to mimic the stretch payout while also benefitting charitable organizations.

future developments in the law may affect the topic(s) addressed within these materials. Always consult with a lawyer about your particular circumstances before acting on any information presented in these materials because it may not be applicable to you or your situation. Providing these materials to you does not create an attorney/client relationship. You should not provide confidential information to us until Reinhart agrees to represent you.