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Growing Wealth Responsibly

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SECURE Act

Setting Every Community Up for Retirement Enhancement Act of 2019

By

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On December 20, 2019, a new retirement bill —**Setting Every Community Up for Retirement Enhancement Act**, better known as the SECURE Act, was passed as part of the 2020 fiscal year appropriations bill.

What does this mean for you? There are several areas of the SECURE Act which will have an impact based on where you are in the Retirement Life Cycle — if you are just starting your education, new to the work force, starting a family or preparing for retirement, you may be affected by the SECURE Act.

The information provided is not meant to be advice. It is to make you aware of some of the changes that might affect you and your family. Please schedule a meeting so we can review in detail how this new law will impact your individual situation.

Some of the areas which should be reviewed for impact on your personal situation include:

- **Individual Retirement Accounts (IRAs)**
- **Required Minimum Distributions (RMD)**
- **Non-Spousal Stretch IRAs**
- **Small Business Retirement Plans and 401(k)s**
- **401(k) and Safe Harbor Retirement Plans**
- **Education**
- **Student Loans**
- **529 Plans**
- **Starting a Family**
- **Kiddie Tax**

Individual Retirement Accounts (IRAs):

- Historically, there has been age limits to when you were no longer able to contribute to an IRA. However, under the new law, if you have earned income, then you can contribute to an IRA.
- Age may have been taken off the table as a qualifier, but income is still a factor. If income is too high to get the tax advantages from IRA contributions, options may exist with a Roth IRA.
- A new IRA rule states students in graduate or doctoral programs who are receiving stipends or other such benefits can consider these as earned income for IRA contribution purposes.
- Like the stipends for students, financial benefits received for providing Foster Care can also qualify as earned income for IRA contribution purposes.
- Individuals who are receiving the stipends and foster care payments should consider using the ROTH IRA since they are most likely in a lower tax bracket.

Required Minimum Distributions (RMDs):

- There have been several changes surrounding RMDs. One of the most important changes is that the **age of mandatory distributions has shifted from 70 ½ to 72.** However, anyone who is 70 ½ before December 31, 2019, is still held to the old distribution laws.
- For those who choose to wait until 72 to start taking RMDs, it is important to know there may be a "bunched distribution"— requiring a larger first year amount of your distribution. By delaying the start of the distributions, assets can possibly last longer to help fund the later retirement years.
- Another thought is, since you are starting distribution later, you will have a shorter time to take the distributions over your lifetime. This will result in larger regular payments which may have an impact on things like, taxability of Social Security income, Medicare income related monthly adjustments or even put you in a higher tax bracket.

Non-Spousal Stretch IRA

In the past, non-spousal beneficiaries of Inherited Retirement Accounts had three options. They could 1) take out the inheritance all at once (big tax bill), 2) spread the withdrawals out over 5 years (lesser tax bill) or 3) take the distributions over the remainder of their life (least amount of tax). The last option of spreading the distribution out over the lifetime of the beneficiary was called a Stretch IRA.

Under the SECURE Act, there have been a few changes:

- You can still take all the money out at once. This strategy can lead to a larger than necessary tax bill. The option of taking the money out over a five-year window has been changed. You will now have to withdraw all the funds from an inherited IRA before the 10th year following the death of the account holder. The option to spread the distributions over the life of the beneficiary has gone away.

- Under the SECURE Act, "Eligible Designated Beneficiaries (EBD)" are still allowed to take the life distribution. EBDs include spouses, those who are disabled or chronically ill, 10 years or less in age of the decedent or minors. Minors can only enjoy the lifetime distribution until their 18th birthday, then they have 10 years to withdraw the funds. This means careful attention should be paid to how money is being left to beneficiaries. To avoid future tax, one could consider possible ROTH conversions before leaving money to heirs.

Small Business Retirement Plans and 401(k)s

- In the past, small businesses may have been hindered from starting plans due to cost. To help mitigate that, a new $500 tax credit is offered to any business who has an automatic enrollment 401(k) or SIMPLE IRA. Small businesses also get a Multi-Employer Plan (MEP) structure to possibly aggregate plans and help lower costs.

- Employees who are part of a "Safe Harbor" retirement plans will now be allowed to contribute up to 15% their regular pay into their 401(k)s This is up from the 10% previously enforced.

- Part-time employees who work 500 hours per year and have been with the company for 3 years can now contribute to an employer 401(k). In the past, only full-time employees working at least 1000 hours per year could be participants.

- The SECURE Act also removed the Fiduciary liability of a plan sponsor who allows the use of products that do not perform as promised. This means, you may start seeing more annuities offered inside retirement plans. I don't believe this is a good thing, but that is just my opinion.

- The maximum tax credit for retirement plan startup costs has been increased from $500 to $5,000 per year in certain circumstances. This is still limited to 50% of the total costs.
- 401(k) plans will now be required to add a new section to client statements that will show the expected lifetime cash flow which can be generated from the retirement assets.

401(k) Plans and Safe Harbor Retirement Plans

- Employees who are part of a “Safe Harbor” retirement plans will now be allowed to contribute up to 15% their regular pay into their 401ks This is up from the 10% previously enforced.

- Part time employees who work 500 hours per year and have been with the company for 3 years can now contribute to an employer 401k. In the past, only full-time employees working at least 1000 hours per year could be participants.

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- Small businesses have been hindered from starting plans due to costs. To help mitigate that, a new $500 tax credit is offered to any business who have an automatic enrollment 401k or SIMPLE IRA. Small businesses also get a Multi-Employer Plan (MEP) structure to possibly aggregate plans and lower costs.

- The maximum tax credit for retirement plan startup costs has been increased from $500 to $5,000 per year in certain circumstances. This still limited to 50% of the total costs.

- 401(k) plan administrators will now be required to add a new section to their statements that will show expected lifetime cash flow which can be generated from the retirement assets.

What is a Safe Harbor Retirement Plan?

A Safe Harbor Retirement Plan is a retirement plan similar to a traditional 401(k) plan.

However, Safe Harbor plans differ from traditional 401(k)s in one major regard - **employers must make annual contributions to the plan on behalf of employees and those contributions must be immediately vested.**

Regular 401(k) plans don't have mandatory contributions and don't mandate immediate vesting. With a traditional 401(k), the employee's contribution is immediate, but any employer contribution can be vested over time. That's the difference.

In going with a Safe Harbor, small businesses aren't subject to the paperwork-heavy annual non-discrimination tests that apply to regular 401(k) plans.

With Safe Harbor 401(k) plans, business owners must offer employees either an eligible matching or so-called non-elective contribution and each must be available to all employees. Employers have several contribution options under Safe Harbor 401(k) rules.

Education, Student Loans and 529 Plans:

The Tax Cuts and Jobs Act of 2017 (TCJA) helped expand the use of 529 College Savings Plans to cover more than just post-secondary education as it had for so many years. You can spend $10,000 of 529 monies annually on education for K – 12. This was a big help to many people.

The SECURE Act goes even further. One of the new additional benefits of a 529 includes paying $10,000 in student loan debt. This means you can help those who have already graduated! It also means there might be some decisions to make. In the past, funds withdrawn from a grand-parent's 529 to help a grandchild counted against the grandchild's financial aid qualifications, possibly reducing otherwise available financial aid, such as loan and grants. Grandparents can now delay the gift allowing the grandchild to qualify for financial aid before gifting the funds.

529 Plans

The cost of college is too high for many families and traditional college may not be for everyone. What if you started a 529 and your child decides to train for a trade instead of getting a college degree? You are in luck! 529s can now be used to help fund trade and vocational schools, as well as the costs for some apprenticeship programs.

These new rules apply at the federal level. To ensure full compliance, you will also need to check your state's rules to see how they are addressing the additional uses of 529s.

Starting a Family

The SECURE Act added a provision that families can withdraw $5,000 from a retirement plan for adoption or birth of a child without paying the 10% early distribution penalty.

Kiddie Tax

The Kiddie Tax was changed with the Tax Cuts and Jobs Act of 2017 (TCJA). The TCJA stated the first $1,100 of investment (unearned) income is tax free, the second $1,100 is taxed at the child's tax rate (usually 10%) and any additional unearned income is taxed at Trust rates. The SECURE Act re-turns the final tax rate from the Trust tax rates to the tax rate of the parents.

Sources include: Congressional Research Service/Library of Congress - www.loc.gov, Wealth Management - www.wealthmanagement.com, National Association of Enrolled Agents - www.naea.org, Kiplinger - www.kiplinger.com

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