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Major Changes to your Retirement Plans

On December 20, 2019, the ***S***etting ***E***very ***C***ommunity ***U***p for ***R***etirement ***E***nhancement Act of 2019 ("SECURE Act") was enacted making significant changes to the administration and inheritance of retirement accounts. The SECURE Act is effective January 1, 2020. Highlights of the changes affecting individuals (positively and negatively) are summarized below:

The Good News

- An individual may continue to contribute to his or her IRA beyond age 70 and ½. Under old law, the individual was prohibited from doing so.
- Required minimum distributions ("RMDs") can be deferred until age 72. Under old law, RMDs had to begin at age 70 and ½.
- The penalty for early withdrawal (up to $5,000) from IRAs in the case of a birth or adoption of a baby is waived. Existing laws (IRC. Sec. 72(t)) regarding the 10% penalty for early withdrawals from retirement accounts (prior to age 59 and ½) still apply to withdrawals in excess of that amount or for reasons other than birth/adoption.
- Inclusion of part-time workers who meet certain criteria for employer defined contribution plans. Under the new law, employers maintaining a defined contribution plan must allow part-time employees to participate in such plans if the employee works for the company at least 500 hour per year for three (3) consecutive years.
- Mandatory disclosure by plan administrators regarding lifetime income from accounts. Under the new law, plan administrators, must annually provide individual participants a disclosure illustrating the monthly payments he/she would receive from the account. This requirement will help younger participants better understand how the accounts will operate when they begin to draw on the accounts later in life.
- A surviving spouse is still permitted to roll over a retirement account owned by his or her deceased spouse into an IRA in his or her own name.

The Bad News

- Following the death of the retirement account owner, most non-spouse designated beneficiaries (with certain exceptions noted below) will be prohibited from "stretching" inherited IRA distributions over the life expectancy of the beneficiary. Instead, most designated beneficiaries will be required to withdraw the entire inherited IRA account no later than ten (10) years from the date of the Plan Participant's death. Previously, naming individual beneficiaries (i.e. an adult child) would allow the designated

beneficiary to "stretch" the required minimum distribution withdrawals from the inherited IRA account based on the beneficiary's life expectancy.

There are some exceptions to the new ten (10) year rule: surviving spouse; minor children until the age of majority; disabled beneficiaries; chronically ill beneficiaries; and beneficiaries who are less than ten (10) years younger than the retirement account owner.

Many individuals have historically used so-called "Conduit Trusts" to control the post-mortem distributions to beneficiaries while taking advantage of the ability to "stretch" the IRAs over the lifetime of the beneficiary. This new ten (10) year rule will limit the efficacy (or even practicality) of Conduit Trust planning.

Since the changes are significant, we strongly encourage you to review your overall planning objectives, assets, and selection of beneficiaries with your attorneys, financial or investment advisors, and certified public accountants to:

1. Review your current qualified account beneficiary designations and determine if any changes are necessary or advisable;
2. Review and potentially revise wills and trusts that include Conduit Trusts previously intended to hold IRAs and preserve the "stretch" IRA benefits;
3. Determine whether any of your designated beneficiaries fit the criteria for the continued use of the lifetime "stretch" (i.e. beneficiaries who are disabled, chronically ill, or less than ten (10) years younger than the retirement account owner); and
4. Review the use of traditional IRAs and reevaluate whether alternate financial planning strategies are advantageous to provide income tax free distributions to beneficiaries (i.e. life insurance or Roth IRAs).

The impact brought by the SECURE Act will vary between individuals based on individual circumstances. It is important to contact us, your certified public accountant, and/or financial or investment advisors to review the new SECURE Act and how it affects you.

Please do not hesitate to contact us by telephone or email.

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