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Planning Primer - SECURE ACT 2020

It is likely that most of you reading this have already read, or at least heard about, the Setting Every Community Up for Retirement. Enhancement Act of 2019 or better known as the SECURE Act. It was legislation that was originally passed by the House in July and finally approved by the Senate and the President on December 20th, 2019. This bill includes some significant provisions which center on increasing access to tax advantaged accounts and helping aging Americans to better utilize their retirement assets. Below we will provide our take on the good and the ugly portions of this Act. Our review is meant to be very high level and simply to ensure that you are aware of the significant changes and to provide a perspective. We have categorized the changes as either good or just straight ugly.

What Helps:

Increased required minimum distribution (RMD) age to 72 from the current requirement of 70 ½. This change is being implemented as of January 2020, therefore if you are already required to take distributions then there is no change for you, and you must continue taking your annual RMDs. This change is a relief only for those that will turn 70 ½ in 2020 and beyond. You now have another year and a half to let the assets grow in your IRA before distributions start. An easier way of thinking about this may be by birthdate:

- If your date of birth is June 30th, 1949 or earlier: RMDs will begin at age 70 1/2
- If your date of birth is July 1st, 1949 or later: RMDs will begin at age 72.

Qualified Charitable Distributions (QCDs) still allowed at age 70 ½. QCDs are an important part of many people's giving strategy and it is still preserved. While the RMD age has been increased to 72, QCDs will still be allowed upon reaching age 70 ½. For those taking RMDs, any gifts (up to the $100,000 annual limit) from the IRA to a qualified charity will still count against the required distribution amount for that year. For those not in RMD status, but have turned 70 ½, you can utilize this gifting strategy as a means to reduce your IRA balance in an effort to potentially reduce future RMDs and essentially get an immediate reduction on your taxable income. This is beneficial as it has become more difficult to itemize deductions given today's higher standard deduction limits.

Traditional IRA contributions allowed past age 70 ½. Beginning in 2020 anyone, regardless of age, can contribute to a traditional IRA as long as they have earned income from wages or self-employment. This is great for those individuals that are still working past age 70 ½ and can still afford to save.

Provisions for Small Business Retirement plan usage. This act has made it easier for businesses to provide retirement plans to employees. There is now a credit of up to $500 for three years to reimburse the costs of starting business sponsored plans such as 401(k), 403(b), SEP IRA or a Simple plan. Another $500 tax credit is also being offered to those small businesses that adopt auto enrollment feature to their plans. There are other favorable goodies for small business employers in this legislation that we won't get into here but if you would like more information, please reach out to the planning team.

Student Loans and apprenticeships allowed as qualified education expenses for 529 plans. Starting in 2020, 529 Plan funds are now allowed to be used for fees, books, supplies and required equipment for apprenticeship programs that are registered and certified through the Department of Labor. Of greater importance to many is that 529 funds can be used to pay up to $10,000 of student loan debt. This benefit is a lifetime per-person limit. The other interesting twist is that the funds can be used to pay down an additional $10,000 of student loan debt for all of the beneficiary's siblings. This could be useful for people that have unused 529 plan funds that may otherwise be subject to taxation or need to be gifted.

What Hurts:

Death of the Stretch! This is the biggest change in this Act. What do we mean by the death of the stretch? Under the old provisions, if someone inherited an IRA, distributions could be stretched over the new owner's lifetime. This was advantageous when IRA assets were passed to younger generations as they could spread taxation out over a longer period. The SECURE Act changed the game by taking away this ability for most beneficiaries and instead requires inherited IRAs to be distributed over a 10-year period. Under the new provisions, there are no RMD requirements which allow the beneficiary discretion as to when and how much is withdrawn annually in that 10-year period, as long as all funds have been withdrawn by the end of the 10th year. There are a few beneficiaries this change will not apply to including: spouses; disabled, chronically ill; those who are not more than 10 years younger than the decedent; and certain minors (but only until reaching the age of majority and then the 10-year clock starts ticking).

Please note: This change is only effective for inherited accounts established in 2020 going forward. If you have an existing inherited IRA, established prior to 2020, these rules will not apply to you. You will continue to follow previous law, taking an RMD annually and maintain the ability to stretch your account over your life expectancy.

The Impact on Trusts as Beneficiaries: No longer having the ability to stretch can have big implications for estate plans that utilize trust arrangements. Due to the new provisions, trusts that are beneficiaries of inherited IRAs will be forced to payout over 10 years. It becomes even more complicated, however, depending on the language used in these trusts, commonly referred to as conduit trusts. There is a concern that these trusts may require distributions from an inherited IRA be accumulated – this will require taxation at trust rates which hit the top marginal rate at income of just $12,750. Further, some trust language states that ONLY RMDs can be taken in each year - however this new legislation has no inherited RMD requirement (other than the requirement that all assets need to be distributed by the end of year 10). Therefore, certain trusts may be forced to take the entire distribution in year 10, lumping all income into a single year. This takes away the ability to use discretion in an effort to take distributions in a more tax efficient manner.

ESTATE PLANS and BENEFICIARY DESIGNATIONS NEED TO BE REVIEWED! There are wide ranging implications with the death of the stretch which impact estate planning and prompt the need to review how IRA beneficiaries can take distributions in the most tax efficient manner. From a future planning perspective, this potentially makes Roth IRA assets a more appealing choice to leave to the next generation as there are no tax implications on the 10-year withdrawals. It may make sense to consider adding more aggressively to Roth assets through Roth conversions, Roth 401k accounts, or contributing directly to a Roth IRA. This is a generalized comment and we stress that everyone's financial situation is unique.

The Whitney Planning team is here to help you with navigating your financial affairs and to assist in making the best decisions for you and your family, so please reach out.

NOTE: This article is not a comprehensive review of all changes put into place by the SECURE Act. We have covered the topics we thought to be of most importance to the majority of our clients.

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