Will the SECURE Act impact your use of IRA funds in your estate plan?

January 10, 2020 | **CLIENT ALERTS**

On Friday, December 20, 2019, President Trump signed legislation funding the federal government through September 30, 2020, that contains provisions from the Setting Every Community Up for Retirement Enhancement Act of 2019 (the "SECURE Act," or "Act"). The SECURE Act might impact your use of IRA funds if you have incorporated an estate plan utilizing these funds (e.g., directing a trust or a charitable entity as a beneficiary of IRA funds). Below is a highlight of several of the Act's major provisions.

Elimination of the Stretch IRA

The SECURE Act limits the use of "Stretch IRAs" by requiring an individual's entire interest in an IRA to be distributed to a designated beneficiary within ten (10) years after the death of the employee, whether or not distributions of the employee's interest have begun. An exception is provided for eligible designated beneficiaries that generally allows distributions over the life or life expectancy of the eligible beneficiary beginning in the year following the year of the employee's death. Eligible designated beneficiaries include (1) surviving spouses,
(2) children who have not reached the age of majority, and (3) disabled and chronically ill beneficiaries. The change does not affect an existing binding annuity contract. Surviving spouses can still elect to delay distributions until the end of the year that the employee would have attained age 70½ (or age 72, as appropriate). The provision generally applies to distributions with respect to individuals who die after December 31, 2019.

Increase in Age for Required Minimum Distributions

The Act increases the age minimum required distributions from IRAs must begin from age 70½ to age 72. The provision applies to distributions required to be made after December 31, 2019, with respect to individuals who turn 70½ after such date.

Maximum Age for IRA Contributions

The SECURE Act repeals the maximum age for traditional IRA contributions made for tax years beginning after December 31,2019.

Qualified Charitable Deduction Exclusion

The SECURE Act reduces the $100,000 qualified charitable distribution exclusion by the excess of the allowed IRA deduction for all taxable years ending on or after age 70½ over the amount of all prior year reductions. The provision is effective for distributions made for taxable years beginning after December 31, 2019.

Child Birth or Adoption Withdrawals

The SECURE Act provides an exception to the 10% early withdrawal tax for qualified birth or adoption distributions from IRAs made after December 31, 2019. The maximum aggregate amount that may be treated as qualified birth or adoption distributions by any individual is $5,000. The qualified birth or adoption distribution must be made from the plan to an individual during the one year period beginning on the date on which the individual's child is born or on which the legal adoption of an eligible adoptee is finalized. Subject to certain requirements, individuals may recontribute qualified birth or adoption distributions to their plan. This provision is effective for distributions made after December 31,2019.

More IRA Contribution Options for Some Individuals

- The SECURE Act expressly treats taxable amounts paid to graduate and postdoctoral students as income for purposes of IRA contributions. This allows these students to use non-tuition fellowship and stipend payments to contribute to an IRA. The provision applies for tax years beginning after December 31, 2019.
- The Act also allow individuals who provide foster care to individuals with disabilities and who receive nontaxable "difficulty of care" payments to elect to include those payments as nondeductible contributions to their IRA. The provision applies to contributions made after December 20, 2019.

Please contact us as soon as possible to review your beneficiary designations and other aspects or your IRA in light of the SECURE Act amendments. Your prompt attention is required, because most of these provisions are effective on January 1, 2020.

Related Team

Edward C. Akel
Partner

Daniel D. Akel
Partner

Alessandro A. Apolito
Partner

Christina H. Arthurs
Counsel

Conor E. Brownell
Partner

Kathleen H. Cold
Partner

Kevin J. Cross
Managing Partner | Chairman | Executive Committee

Robert E. Ganz
Senior Counsel

Stanley B. Segal
Of Counsel

David E. Siegfeld
Partner | Team Leader - Trusts & Estates

Courtney Donahue Tasner
Partner

Charles E. Telford III
Partner

ALBANY | 54 State Street, Suite 1001 • Albany, NY 12207 • 518.462.0110

BUFFALO | 50 Fountain Plaza, Suite 1700 • Buffalo, NY 14202 • 716.853.5100

CHICAGO | 125 S Clark St., 17th Floor • Chicago, IL 60603 • 872.254.5500

GREATER TORONTO AREA (PRACTICE FOCUSED ON U.S. LAW) | 1100 Burloak Drive, Suite 300 • Burlington, ON L7L 6B2 • 905.319.8964

JACKSONVILLE | 10151 Deerwood Park Blvd. , Bldg. 300, Suite 300 • Jacksonville, FL 32256 • 904.660.0020

LONG ISLAND | 1979 Marcus Ave, Suite 210 • Lake Success, NY 11042 • 516.820.1500

NEW YORK CITY | 260 Madison Avenue, 17th Floor • New York City, NY 10016 • 332.345.4500

ROCHESTER | 400 Linden Oaks Dr., Suite 150 • Rochester, NY 14625 • 585.770.7590

SAN ANTONIO | 4499 Pond Hill Road, • San Antonio, TX 78231 • 210.436.6222

WASHINGTON, D.C. | 1900 K Street, NW, Suite 730 • Washington, DC 20006 • 202.888.7610