

WEALTH & SUCCESSION PLANNING GROUP**SECURE ACT LIMITS STRETCH OUT FOR
NON-SPOUSAL BENEFICIARIES**

The Setting Every Community up for Retirement Enhancement Act of 2019 (the “SECURE Act”) was signed into law on December 20, 2019. Under the SECURE Act many changes were made to retirement accounts, including but not limited to, adjusting the required beginning date for a defined contribution plan and an Individual Retirement Account (hereafter collectively referred together as an “IRA”) from 70 ½ to 72 (for those not reaching 70 ½ before December 31, 2019). One significant change was made to 529 plans, in that a qualified (non-taxable) distribution from a 529 plan now includes education costs associated with registered apprenticeships, homeschooling, and up to \$10,000.00 (lifetime) of qualified student loan repayments of the beneficiary or a sibling of the beneficiary.

But, from an estate planning perspective, perhaps the most significant change was the elimination of the “stretch IRA” for non-spousal beneficiaries of the IRA owner. Under the SECURE Act, all designated beneficiaries, who are not an “eligible designated beneficiary,” must withdraw the balance of the IRA within ten (10) years of the death of the owner (the “10-year distribution rule) – no longer may the designated beneficiary “stretch out” the distributions from the IRA over his or her life expectancy. An “eligible designated beneficiary” that is not subject to the 10-year distribution rule is a spouse, a minor child (only until they are no longer a minor, at which time the 10-year distribution rule then applies at that time), a disabled beneficiary, a chronically ill individual, or a beneficiary who is not more than ten (10) years younger than the owner.

Note that the 10-year distribution rule only provides that the entire balance of the IRA must be distributed within ten (10) years of the death of the IRA owner. There is no calculated required minimum distribution on an annual basis. The IRA may be fully distributed all at once after the death of the owner, over time (whether equally or unequally) or all at once just before the ten (10) year term expires. There is certainly some income tax planning that will come into play for the non-spousal beneficiary.

For any questions or comments you might have regarding this newsletter, please feel free to contact:

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CRITICAL TAKEAWAYS:

- Because a spouse is not subject to the new 10-year distribution rule under the SECURE Act, it remains crucial that an IRA owner designate his or her spouse as the primary beneficiary of the IRA, as opposed to the IRA Owner's revocable living trust or IRA Trust (hereinafter collectively referred together as a "Trust"). The surviving spouse will continue to be permitted to do a spousal rollover and have the distributions made over his or her remaining life expectancy.
- Trusts continue to be a feasible option for minor children. It is unwise to name a minor child as a beneficiary of an IRA. Instead, we recommend our clients name Trust as the beneficiary (after the spouse) to ensure a guardianship estate need not be opened to hold the beneficial interests of a minor beneficiary. Often times, our clients do not want their children inheriting assets outright at the age of majority. Designating a Trust as a beneficiary to provide for an IRA owner's child or children continues to be ideal in this situation, as it prevents the child from having the option to take a lump-sum distribution at the death of the IRA owner. Instead, any distributions from the IRA go to the Trust, and, depending on the language of the Trust, are either passed through to the child (a conduit trust) or retained by the trustee and paid out at his or her discretion to the child. Even once the IRA has been fully distributed under the 10-year rule, the (non-conduit) Trust can continue to hold the assets that were distributed from the IRA for the benefit of the child per the terms of the Trust.
- Trusts continue to be a feasible option for spendthrift children. Similar to the benefits listed above, even after the 10-year distribution rule has required the full amount of the IRA to be distributed, a (non-conduit) Trust may continue to hold the assets of the Trust for the benefit of the spendthrift child per the terms of the Trust.
- Trusts drafted prior to the adoption of the SECURE Act and that are named as beneficiary of an IRA should be reviewed to determine whether the IRA owner desires to make any amendments to the formulas provided therein for non-spousal beneficiaries, given the 10-year distribution rule. For any conduit Trusts, the language should be reviewed since there are no required minimum distributions during the 10-year distribution rule, other than the fact that the entirety of the IRA must be distributed within ten (10) years of the death of the IRA owner.

Please contact us to cover any questions you may have regarding the SECURE Act, your IRAs, Trusts or other questions regarding required minimum distributions from your IRAs during your lifetime or after your passing.