

How the SECURE Act Could Affect You

The Setting Every Community Up for Retirement Enhancement Act, commonly referred to as the SECURE Act, took effect January 1, 2020 and impacts anyone owning an individual retirement account, or IRA. While the SECURE Act has many facets, this article focuses on those facets which may most affect you and your estate plan.

Assets bearing beneficiary designations, such as retirement accounts, are disposed of based upon the controlling beneficiary designation form and not necessarily the terms of your Last Will and Testament. As such, a complete estate plan should include updated beneficiary designation forms along with your traditional Wills and Powers of Attorney documents.

Prior to the passage of the SECURE Act, the designated beneficiary of your IRA was able to stretch the minimum required distributions from your IRA over his or her own life expectancy, resulting in smaller, incremental payments to your beneficiary and corresponding smaller, incremental income tax payments from your beneficiary. This stretch period was especially attractive for young beneficiaries, such as children or grandchildren. The SECURE Act now requires your entire retirement account to be distributed by the 10th anniversary of your death, marking a significant change in the law. Congress, however, carved out several exceptions for those who qualify as Eligible Designated Beneficiaries, thereby allowing lifetime stretch payments to remain available.

Examples of such Eligible Designated Beneficiaries include a surviving spouse, an individual no more than 10 years younger than the IRA owner, a chronically ill individual, a disabled individual and a minor child of the IRA owner. The exception for minor children does not extend to stepchildren and reverts to the 10 year withdrawal rule upon the child attaining the age of majority.

Accordingly, IRA owners may now wish to reconsider their beneficiary designations dependent upon the size of the IRA and the potential income tax consequences associated with an abbreviated distribution period. Additional planning can be done for those who do not qualify as Eligible Designated Beneficiaries as the 10 year mandated payout period is a maximum without set annual minimums. The beneficiary, therefore, has discretion to choose the most tax effective distribution scheme so long as it does not exceed the 10 year maximum, whether that be draining the IRA in 10 equal annual installments or all at once to offset a high deduction year; there remains room for tax planning.

The SECURE Act also modified the required minimum distribution age. Prior to its passage, IRA owners were obligated to begin taking minimum required distributions from their retirement accounts in the year after attaining age 70 ½. Now, for those owners born after June 30, 1949, the required beginning date has shifted to April 1 of the year after attaining age 72. Additionally, under the new law, an IRA owner may continue to contribute to his or her IRA so long as he or she continues to work and earn income, thereby eliminating a cap based upon the age of the IRA owner.

In light of these changes, IRA owners should consider how the SECURE Act impacts their estate plan, especially those who have named retirement trusts as the beneficiary of their retirement

accounts. The estate planning attorneys at Stock and Leaders are here to answer any questions and assist you in tailoring the best plan for you.