The SECURE Act: 10 Changes that You Should Know About

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The passage of the SECURE Act will affect financial and retirement planning in a variety of ways—with the loss of the stretch IRA figuring prominently for some.

On May 23, 2019, the House of Representatives passed the SECURE Act by an overwhelming majority of 417-3; the Senate on December 19, 2019 approved it (as part of a broad spending plan), and President Trump finally signed it into law on December 20. With its basket of popular bipartisan provisions, the SECURE Act will expand and modernize the defined contribution retirement plan system, aiming to live up to the promise of its name: "Setting Every Community Up for Retirement Enhancement." As such, it represents the most significant retirement policy legislation since the Pension Protection Act of 2006. Highlights of the Act include an increase in the RMD age by 18 months (from 70½ to 72) and the expansion of 401(k)s, among other things. But there's much more to know about the changes the Act brings, so read on as we review 10 facts, from the well-known to the little known, about the SECURE Act.

1. **The RMD age is being moved from 70½ to 72.** This provides an extra 18 months when people can let their retirement funds grow before being forced to tap into them.

2. **Investors are no longer prohibited from contributing to a traditional IRA if they are 70½ and older, as long as they have earned income.** People can continue to put away money in a traditional IRA if they work into their 70s and beyond. (There are currently no age-based restrictions on contributions to a Roth IRA.)

3. **Part-time employees will have access to 401(k)s.** The Act guarantees 401(k) plan eligibility for employees who have worked at least 500 hours per year for at least three consecutive years and who are 21 years old by the end of that three-year period.

4. **There will now be penalty-free withdrawals for birth or adoption of a child.** If parents have a retirement account, the Act lets each parent take out up to $5,000 without paying the usual 10% early-withdrawal penalty.

5. **Annuity information and options will be expanded.** The Act requires 401(k) plan administrators to provide an annual "lifetime income disclosure statement" to plan participants, so they can see how much money they could get each month if their 401(k) account balance was used to purchase an annuity. The SECURE Act will also make it easier for 401(k) plan sponsors to offer annuities and other "lifetime income" options to plan participants by taking away some of the associated legal risks. These would be portable, too.

6. **There will be an enhancement of auto-enrollment 401(k) plans.** The Act will increase the 10% cap on "Qualified Automatic Contribution Arrangement" (QACA) automatic contributions up to 15%, other than during a worker's first year of participation. This would allow companies

offering QACA's to ultimately put more money into their workers' retirement accounts while keeping the potential shock of higher initial contribution rates in check.

7. **Small businesses offering retirement plans will be given help.** The Act will increase the tax credit available for 50% of a small business' retirement plan startup costs. Also, instead of the $500 per year credit limit, the Act will increase the maximum credit amount to $5,000.

8. **Amounts paid in the pursuit of extended study (such as the pursuit of graduate or post-doctoral study or research) would be treated as compensation for purposes of making IRA contributions.** This allows for affected students to begin saving for retirement sooner. Similarly, "difficulty of care" payments to foster care providers would also be considered compensation when it comes to 401(k) and IRA contribution requirements.

9. **Credit card access to 401(k) loans will be prohibited.** This Act would put a stop to 401(k) administrators allowing employees to access plan loans by using credit or debit cards.

Depending on how well-informed you are on the SECURE Act, you may have noticed that we have yet to mention arguably the most significant change in the SECURE Act:

10. **The Act is essentially doing away with the "stretch IRA" for non-spouse beneficiaries who are greater than 10 years younger than their spouse.** Distributions over the life expectancy of a non-spouse beneficiary would be allowed if the beneficiary is a minor, disabled, chronically ill, or not more than 10 years younger than the deceased IRA owner. For minors, the exception would only apply until the child reaches the age of majority. At that point, the 10-year rule would kick in. For example, under current law, a one-year-old who inherits an IRA is considered to have an 81.6-year life expectancy. Under the SECURE Act, that same child would have until age 21 + 10 years to withdraw the IRA, totaling 31 years. In this instance, the deceased would be better off naming his spouse as the beneficiary.

Responding to the loss of the stretch IRA

In short, the SECURE Act is requiring the traditional IRA to be withdrawn within 10 years and makes it so that nonspouse retirement account beneficiaries can no longer "stretch" out required minimum distributions (RMDs) over their lifetime. This change will have far-reaching implications for people with large IRA balances (around $1 million balance or higher). So, what is the next step? Are you at risk of dying with a large traditional IRA in your account? We consider any individual with a large 401(k) and/or large traditional IRA to be "at risk." Widows (or widowers) are particularly susceptible, having often just inherited their spouse's IRA.

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