How The "SECURE Act" Will Affect Americans' Retirement

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by Gary D. Halbert
of Halbert Wealth Management

Overview – What is the *"SECURE Act"*?

A sweeping new retirement bill is working its way through Congress that is aimed at helping the country overcome its retirement savings crisis. That's what many lawmakers in Washington envision with the ***Setting Every Community Up for Retirement Enhancement Act of 2019*** – better known as the ***"SECURE Act."*** The far-reaching bill includes 29 provisions aimed at increasing access to tax-advantaged retirement accounts and preventing older Americans from outliving their assets.

The *SECURE Act* includes numerous new retirement account benefits including making it easier for small businesses to set up retirement plans such as 401(k)s that will be less expensive and easier to administer. Many part-time workers would be eligible to participate in employer retirement plans under the bill. And the *SECURE Act* would also push back the age at which retirement plan participants must take "required minimum distributions" (RMDs) from 70½ to 72. These are just a few of the new benefits included in the *SECURE Act.* I'll discuss more below.

The sweeping new legislation passed overwhelmingly in the House of Representatives in May but has since been bogged down in the Senate for reasons I will share below. While most of the new retirement provisions in the *SECURE Act* are welcome additions, unfortunately not all of them are. One provision, for example, would require retirement account heirs to pay taxes on their inheritance in 10 years instead of over their remaining lifetimes as is the case now.

While the *SECURE Act*, if passed into law, would be the most sweeping retirement legislation in decades, most Americans apparently know little or nothing about it. No one I've asked this week has even heard of it. That's why I decided to bring it to your attention today and point out the pros and cons. This is information all adult Americans, and our kids as well, need to know.

The Retirement Savings Crisis in America

The fact that there's trouble brewing in the US retirement system, which requires most workers to supplement Social Security with personal savings, has been widely acknowledged. According to data from the US Bureau of Labor Statistics published in 2018, only **55%** of the adult population participate

in a workplace retirement plan of any kind. And even those who do are often **woefully behind** when it comes to investing part of their paychecks.

The wealth management giant Vanguard, for instance, revealed early in 2019 that the median 401(k) balance for those ages 65 and older is just **$58,035**. That is a fraction of the savings needed to fund a retirement which could last 20-30 years! The *SECURE Act* aims to encourage employers who have previously shied away from these company-sponsored retirement plans, which can be expensive and difficult to administer, to start offering them.

The *SECURE Act* would tweak a number of rules related to tax-advantaged retirement accounts. Here are the major provisions of the Act, assuming it is passed by the Senate:

- **Make it easier for small businesses to set up 401(k)s by increasing the cap under which they can automatically enroll workers in "safe harbor" retirement plans, from 10% of wages to 15%.**
- **Provide a maximum tax credit of $500 per year to employers who create a 401(k) or SIMPLE IRA plan with automatic enrollment.**
- **Enable businesses to sign up part-time employees who work either 1,000 hours throughout the year or have three consecutive years with 500 hours of service.**
- **Encourage plan sponsors to include annuities as an option in workplace plans by reducing their liability if the insurer cannot meet its financial obligations.**
- **Push back the age at which retirement plan participants must take "required minimum distributions" (RMDs), from 70½ to 72.**
- **Allow the use of tax-advantaged 529 accounts for qualified student loan repayments (up to $10,000 annually).**

"With passage of this bill, the House made significant progress in fixing our nation's retirement crisis and helping workers of all ages save for their futures," Rep. Richard Neal (D-MA) said in a statement after the bill sailed through the House in May.

Most financial planners support the *SECURE Act* and consider it a step in the right direction toward solving the nation's retirement saving crisis. Most favor raising the age for taking required minimum distributions from 70½ to 72, thus giving people a little more time to save for retirement.

Likewise, most agree that reducing the number of hours that employees are required to work in order to sign up for 401(k)s, including part-time workers if they qualify, is a good idea. Most also favor adding flexibility to 529 accounts, which could be used to repay some student loans under the bill. That's a good option for parents who may have funds remaining in an educational savings account and want to help a child who has already graduated.

One Potentially Serious Knock on the S*ECURE Act*

Let's say you have an IRA or a retirement plan that you want to leave to your children in a tax efficient manner after you are gone. If so, you need to be concerned about one new provision in the fine print of the *SECURE Act* that could cost them dearly.

Non-spouse beneficiaries of IRAs and retirement plans are required to eventually withdraw all the money from its tax-sheltered status, but the current law allows them to minimize the amount of their required minimum distributions by "stretching" them over **their own lifetimes**. This is called a ***"Stretch IRA."***

Distributions from a Traditional Inherited IRA are taxable, so the longer your beneficiaries can postpone or defer them (and hence the tax), the better off they will be. The bad news is that the government wants its tax money, and it wants it sooner rather than later.

The big change buried in the *SECURE Act* is a small provision that changes the rules that currently allow your beneficiaries to take distributions and pay the taxes on them over their lifetimes. Under the *SECURE Act*, your non-spouse beneficiaries must withdraw all of the assets and pay taxes on them **within 10 years.**

You might be thinking this is not a really big deal because you expect your heirs will withdraw the money within 10 years anyway – and in many cases that may be true. But let's say your heirs don't need or want to take the money so quickly, and instead want to delay the distributions – and the taxes – as long as possible.

In addition to delaying the taxes, keep in mind that this money is presumably invested wisely and is compounding annually – ***tax-deferred.*** Let's say your kids inherit your IRA or other retirement plan when they are in their 50s, and they only take the required minimum distributions; the remainder of the money could **increase significantly** if they let it compound and don't take it until they need it – under current law.

Note: the discussion above is purposely oversimplified, so be sure to discuss this with your retirement planner, CPA and/or legal counsel before acting upon it. I just thought you should be aware of it. You can read more about it in the first link in SPECIAL ARTICLES below.

The SECURE Act is Currently Tangled Up in the Senate

Despite the *SECURE Act's* overwhelming support in the House, it may take time before the Senate even gets to vote on the bill. In early July, PlanAdviser, a retirement benefits consultant, reported that two Republican Senators – including Ted Cruz (R-TX) – were holding it up. According to a Washington, DC source, Cruz was trying to tweak the section on 529 accounts so that parents can use them for home-schooling expenses as well.

In October, PLANSPONSOR, another benefits consultant, said the bill has been sitting ***"in something like legislative limbo."*** Along with Cruz, two other Senators – Mike Lee (R-UT) and Pat Toomey (R-PA) – had reservations about some technical points. Yet the consultant remains optimistic that the bill could still get unanimous consent in the Senate, or get through by being attached to a broader bill with bipartisan support.

Even with only a few Senators standing in the way, passage of the bill could take a lot longer. Without unanimous consent, the bill would have to go through the committee process, followed by floor debates

and subsequent votes. And if Senators succeed in changing some of the bill's language, the House would have to vote on the newer version as well. It remains unclear how long all that might take.

The question is whether the *SECURE Act* will get passed this year or next? Congress only has a couple of weeks left in the current session and according to Majority Leader McConnell, there is a long list of priorities that needs to be passed this session. A spokesman for McConnell reportedly said last week that the *SECURE Act* might well be delayed until next year.

The bottom line: While it's still possible that the *SECURE Act* may go through some minor changes, the bipartisan support behind the legislation means it's likely to end up passing in the Senate, too – either just ahead or in early 2020.

While the *SECURE Act* is not a panacea for our retirement saving crisis, it is widely agreed it's a step in the right direction, with the one exception discussed earlier. While the *SECURE Act* may be a step in the right direction, it will not solve our retirement savings crisis. That will only be solved if **Americans start saving more**, period, with or without the new legislation.