Trusts and Estates Group

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Client Alert

The SECURE Act Changes the Rules Governing Inherited Retirement Accounts

January 28, 2020

On December 20, 2019, President Trump signed into law an appropriations bill that made a number of changes to the federal tax code. A portion of the bill, known as the Setting Every Community Up for Retirement Enhancement Act (the "SECURE Act"), made extensive changes to the treatment of tax-favored retirement plans and individual retirement accounts.

"Stretch" of Inherited Retirement Accounts Limited

Prior to the SECURE Act, an individual beneficiary was permitted to withdraw an inherited account over the beneficiary's life expectancy. Under the SECURE Act, an individual beneficiary of a plan participant or account owner who dies on or after January 1, 2020, is now generally required to withdraw the account in full by the end the tenth year after the owner's death.

Surviving spouses, disabled beneficiaries, chronically ill beneficiaries, and individuals no more than ten years younger than the deceased owner are still permitted to withdraw an inherited account over their life expectancies. In addition, minor children of a deceased account owner are not subject to the ten-year payout rule until they reach the age of majority. Lifetime stretch-out of distributions remains available to individual beneficiaries of accounts whose owners died before 2020.

The SECURE Act's changes to the rules governing inherited retirement accounts will have significant and often unintended effects on many estate plans, especially (though not limited) to cases where a trust has been designated as the beneficiary.

If you have any questions about how the SECURE Act may affect your retirement account beneficiary designations, please contact us.

Required Beginning Date for Minimum Distributions Raised to 72

Prior to the SECURE Act, a retirement account owner was generally required to withdraw minimum distributions beginning by April 1 of the year after he or she reached age 70½. The SECURE Act raises the age to 72. The age at which qualified charitable distributions may be made remains 70½.

Maximum Age for IRA Contributions Repealed

Under prior law, an individual could not contribute to a traditional IRA during or after the calendar year in which he or she turned 70½. The SECURE Act repeals that limitation.

TCJA Kiddie Tax Changes Repealed

The Tax Cuts and Jobs Act (the "TCJA") had changed the computation of the "kiddie" tax that applies to the unearned income of individuals who are under age 19 (or under age 24 if a full-time student). These changes have been repealed for tax years beginning in 2020, and taxpayers can elect between the TCJA rules and the current rules for the 2018 and 2019 tax years. Clients should consult with their accountants to determine whether amended returns for 2018 should be filed for individuals who were subject to the kiddie tax in 2018.

Tax Rate on Private Foundation Net Investment Income Revised

The appropriations bill revises the computation of excise tax on the net investment income of private foundations. Under prior law, a private foundation's net investment income was subject to either a 2% or 1% excise tax, depending on the amount the private foundation distributes relative to previous years. For tax years beginning after December 20, 2019, a private foundation's net investment income will be subject to a flat 1.39% excise tax.

Repeal of "Parking Tax" on Tax-Exempt Organizations

The appropriations bill repealed the tax imposed on qualified transportation fringe benefits—such as the provision of parking spaces—provided by tax-exempt organizations to their employees. The repeal is effective as of January 1, 2018, when the tax was first imposed. Tax-exempt organizations that have paid the tax should file an amended Form 990-T to claim a refund.

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Please feel free to contact us to discuss how the SECURE Act could affect your retirement planning.

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