The SECURE Act

"Setting Every Community Up for Retirement Enhancement"

Tax Strategies, RMD Tables, and Worksheets

2020

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The SECURE Act

"Setting Every Community Up for Retirement Enhancement" (SECURE)

Introduction to the SECURE Act:

The Setting Every Community Up for Retirement Security Act, or the SECURE Act, was approved by Congress as part of a broader 2020 fiscal year appropriations bill, and was signed into law by President Trump on December 20, 2019. The most far-reaching retirement legislation passed by Congress since the Pension Protection Act of 2006, the SECURE Act incentivizes employers to offer defined contribution (DC) plans, promotes lifetime income options, and improves retirement plan accessibility, design and administration. The legislation includes policy changes that will impact Individual Retirement Accounts (IRAs), DC plans, defined benefit (DB) plans, and 529 plans. While some of the provisions of the SECURE Act will take several years to go into effect, most changes are effective for taxable years beginning after December 31, 2019.

In addition, several changes made in the SECURE Act may materially affect estate planning and beneficiary decisions that were previously made in an effort to minimize Required Minimum Distributions (RMD) to heirs and beneficiaries.

Whenever new tax legislation is passed there are many elements that are subject to Internal Revenue Service (IRS) interpretation. As a result, it may take some time to unravel how many of the changes will affect Americans and their retirement and estate taxation plans.

This booklet provides an overview of the essential details that may have a considerable effect on your retirement and estate planning choices, decisions, and strategies. It is important that you take some time and have a consultation with financial professionals to determine how you may be affected, if at all, by this new and enhanced legislation.

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This booklet also includes IRS RMD tables and a worksheet so that you can calculate the amount you will need to withdraw on an annual basis.

SECURE IRA tax changes that may affect you:

The stretch IRA strategy is a planning tool that allowed an heir to defer IRA distributions over a longer period of time, deferring income tax and permitting the IRA balance to compound income tax free. More specifically, following the death of the IRA owner or plan participant, the retirement benefits passing to a qualified beneficiary—called a "designated beneficiary"—were paid over the life of the designated beneficiary. When the designated beneficiary is much younger than the IRA owner, e.g. a grandchild, that deferral or "stretch out" of payments provided a significant income tax benefit. The RMDs are calculated based on life expectancy of the grandchild or other young heir so after the death of the plan owner the plan assets would be paid out over that long life expectancy. This technique is obviously a major advantage in the estate planning process.

That deferral and the accompanying income tax benefit was also a consideration that made many IRA owners comfortable bequeathing a large IRA balance outright. Other taxpayers sought more protection for larger accounts and had the IRA paid to a special type of trust called a "see-through trust" or "conduit trust" that would flow the RMDs to the beneficiary, thus realizing the stretch, but protecting the balance of the plan for future years. The use of such a trust could thus insulate the large plan balance from the beneficiary's imprudence if the plan had instead been paid outright. Many of these assumptions have been changed by the SECURE Act and taxpayers should reevaluate the following:

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Beneficiary designations for IRA and other retirement plans:

If the taxpayer had relied on the income tax benefits of the stretch IRA rules to discourage an otherwise imprudent beneficiary not to withdraw, spend, or worse, squander plan assets, that assumption should be reconsidered. Many practitioners believe that it might not be preferable to name an accumulation trust as the beneficiary of the IRA so distributions from the IRA as well as the plan balance can be protected from the beneficiary's fiscal irresponsibility. The plan owner might consider the negative income tax consequences a worthwhile price to pay to protect assets that the beneficiary might otherwise withdraw and spend too soon. If the plan owner does not feel that cost is worthwhile, then other options might need to be considered.

Trusts named as beneficiary of IRA and qualified retirement plan assets:

There are two types of trusts that can be used as beneficiaries of IRA assets: an accumulation trust and a conduit trust. The accumulation trust, as its name implies, can accumulate plan distributions inside the trust. The second is a conduit trust that passes IRA distributions through to the beneficiary. If the trust is a conduit trust designed to take advantage of the stretch rules, that plan balance may have to be distributed in 10-years thereby eliminating the income tax benefit, but worse, exposing plan assets to the possible imprudence of the beneficiary and potentially creditors or divorcing spouses of the beneficiary. In some cases the plan owner might prefer to instead name an accumulation trust to hold plan assets.

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For beneficiaries where the original IRA account owner passes away after December 31, 2019:

Fewer beneficiaries will be able to extend distributions from the inherited IRA over their lifetime. Many will instead need to withdraw all assets from the inherited IRA within 10 years following the death of the original account holder Exceptions to the 10-year distribution requirement include assets left to a surviving spouse, a minor child, a disabled or chronically ill individual, and beneficiaries who are less than 10 years younger than the decedent.

It is important to recognize that anyone who has inherited an IRA from an original IRA account holder prior to January 1, 2020 may continue to receive the same RMD's based on their current distribution schedule. The reality of the current environment after January 1, 2020 may allow some beneficiaries exemptions to the new 10-year rule and others may be required to draw down assets more rapidly.

Here's a practical twist:

No withdrawals have to be made during the 10-year period, but at the end of 10-years from the date of the plan holder's death, the entire balance in the plan must be withdrawn. Under prior law there was a difference in the period over which IRA assets had to be distributed based on whether the plan owner died before or after the RMD. Under the SECURE Act the same rule requiring complete withdrawal by year 10 will apply in all cases.

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One other significant change made by the new tax law is the age at which individuals must begin taking RMDs. Prior to January 1, 2020, RMD's had to begin at age 70 ½. Individuals reaching age 70 ½ in 2019 will need to take RMD's based on the prior distribution rules.

Now, the new legislation states that IRA account owners who attain age 70 ½ on or after January 1, 2020 will be able to delay RMD's until age 72. This change acknowledges that Americans are living longer and thus, voluntarily in many cases, working longer. This extension is equal to 18 months. However, it is reasonable to hope that there may be a Congressional push towards age 73 and beyond at some point in the future. The IRS may also modify the life expectancy tables in the coming years.

Here is an interesting side bar; for those who were born in the first half of the year (i.e., between January 1st and June 30th), the SECURE Act provides a longer delay of the first RMD than for those individuals born July 1st through December 31st. Those with their birthdates in the first six months of the year reach age 70 and 70 ½ in the same year (and thus their first RMD is not required until two years later, when they reach age 72), whereas those whose birthdates are in the last six months of the year reach age 70 ½ in the year they reach age 71 (and thus, their first RMD is only delayed until the following year, when they turn 72).

One disadvantage prior to the passing of the SECURE Act was that individuals reaching age 70 ½ must terminate contributions to their IRAs. The new SECURE Act rules will now allow working individuals, regardless of their age, to continue to contribute to a traditional IRA.

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The Congress has also recognized the importance of a positive American birth rate. To that end, the new law provides a benefit of a "qualified birth or adoption distribution" of up to $5,000 from an eligible defined contribution pension plan, profit sharing plan, or IRA without incurring the 10% early withdrawal penalty.

In the U.S., life expectancy is just shy of 80. If a 30-year-old were to inherit an IRA worth $2 million, the first-year distribution under the old rules would be $37,524. Under the new SECURE Act rules, the entire amount would have to be distributed within 10 years of the year following the year of death. If you split that evenly, that's $200,000 per year. The tax ramifications of this are significant and explain the motivation of the legislation's authors: More tax revenue for Uncle Sam.

A new benefit for 529 Plans:

A 529 plan is a tax-advantaged savings plan designed to encourage saving for future education costs. 529 plans, legally known as "qualified tuition plans," are sponsored by states, state agencies, or educational institutions and are authorized by Section 529 of the Internal Revenue Code.

The new SECURE Act law expands the definition of a tax-free or qualified distribution from a 529 savings plan to include repayment of up to $10,000 in qualified student loans, and expenses for certain apprenticeship programs. The SECURE Act makes this change retroactive to distributions made after December 31, 2018.

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Companies will be able to combine resources to provide Tax Qualified Retirement Plans (QP's):

Among the most significant reforms included in the legislation are provisions that remove barriers to unrelated small businesses and employers to join together and participate in "open" multiple employer plans (MEPs), also referred to as "pooled employer plans" (PEPs). These changes, which will go into effect in 2021, are expected to lower the costs and administrative burdens associated with sponsoring retirement plans for small employers.

Credit for start-up costs:

The SECURE Act also provides a new tax credit of up to $500 per year for small employers (100 or fewer employees) to offset the startup costs for new 401(k) plans or SIMPLE IRA plans that include automatic enrollment. In addition, the legislation increases tax credits for small employers that offer new retirement plans from $500 per year currently to up to $5,000 per year for the first three years.

Automatic enrollment credit:

To encourage greater participation in qualified retirement plans, the SECURE Act creates an additional credit of up to $500 per year for businesses that provide new 401(k) and SIMPLE plans with an automatic enrollment feature. This credit, not to be confused with the other credit for start-up costs, is available for three years.

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Automatic enrollment rates:

Moreover, the SECURE Act enhances automatic retirement plan features by permitting DC plan sponsors to automatically enroll employees in a plan at a 6% rate of salary contribution, up from a limit of 3% currently. The legislation also includes a safe harbor for employers to increase employee contributions to the retirement plan to a maximum of 15% of an employee's annual pay, up from a current cap of 10%. In addition, the legislation prohibits the distribution of DC plan loans through credit cards or similar arrangements, and provides penalty-free distributions from retirement plans of up to $5,000 within a year of the birth or adoption of a child to cover associated expenses.

Part-time workers:

Generally, employers were able to exclude part-time workers (i.e., those working less than 1,000 hours per year) from participating in their 401(k) plans. Now the new law opens up plans to employees who have completed one year of service (with the 1,000 hour rule) or three consecutive years of at least 500 hours of service (and who have reached age 21).

Annuity options:

To provide more insights into retirement savings, the new law requires 401(k) plan administrators to provide annual "lifetime income disclosure statements" showing earnings under annuity options. Furthermore, it provides more flexibility to participants when buying annuities, including portability. Insurance companies will likely see an open market for including annuity products into QP's.

Fellowships and stipends:

Because non-tuition fellowships and stipends received by graduate and postdoctoral students don't constitute compensation, they could not be used to fund IRA contributions. To encourage early retirement saving, the SECURE Act allows amounts included in income to be used for IRA contributions.

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401(k) safe harbor rules:

The new law includes various changes designed to provide greater flexibility and simplicity, improve employee protections and facilitate plan adoption. For instance, the legislation eliminates the safe harbor notice requirement, but maintains the requirement allowing employees to make or change an election at least once a year. In addition, the SECURE Act increases the safe harbor auto-increase contribution cap from 10% to 15% of eligible compensation.

At last a "Kiddie Tax" fix:

A somewhat onerous provision prior to the Tax Cuts and Jobs Act of 2017 was to tax a child's unearned income over a significantly low threshold based on their parent's tax rate rather than their own. Then in 2017 a new tax law made a momentous change. The 2017 law eliminated the tax rate of the parent and began to tax the child at the same rate as a non-grantor trust. Incredibly, a non-grantor trust has the highest tax rates in the country beginning with income of $12,000. It clearly was noteworthy and burdensome to tax children and students at such a high rate.

Thankfully the 2017 Kiddie Tax change has been repealed with the new SECURE Act. In addition, those affected may file amended returns for 2018 and will be able to use the previous rules prior to passage of the Tax Cuts and Jobs Act of 2017.

Secure Tax Act Conclusion:

The new SECURE Act may fundamentally change how individuals plan for retirement as well as, for some, how they will try to lessen the potential burden of the estate tax. Please save this booklet and use it as a reference tool for determining RMDs. If there are any future changes or revisions to the current tax laws you will be updated.

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Tax Status of Rolling Over a 401(k)

	Roll over to new employer's plan	Roll over to an IRA	Leave money in former employer's plan
Potential tax-deferred growth	Yes	Yes[1]	Yes
Potential tax-free growth	Varies by plan	Yes[2]	Varies by plan
Wide range of investment options	Varies by plan	Yes[2]	Varies by plan
Continue tax-deferred contributions	Yes[3]	Yes[1]	No
Penalty-free withdrawals for first home purchase and college expenses	No	Yes[1]	No
The ability to take loans	Varies by plan	No	No
Defer minimum required distributions (if over 72)	Yes	No	No
Penalty-free withdrawals prior to age 59	Yes	No	Yes

[1] Traditional or Rollover IRA
[2] Roth IRA
[3] The new employer may require a waiting period.

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Rolling over a 401(k): know your options

By rolling your 401(k) over, you can transfer your retirement money into another retirement account and avoid paying current penalties.

The chart on the previous page compares and contrasts the tax implications of rolling over your retirement assets. Be certain that you analyze all of your options before you make a decision.

Understand your options

If you are unsure what you want to do with your 401(k) account, consider some of these options outlined below:

Leave your money in your former employer's plan: One option is to leave your current plan as is. If your former employer's plan has investment options that you are happy with, and a low fee structure, you may want to consider staying in the plan. This is not a taxable event.

Roll over the assets into your new employer's 401(k) if one is available and it is permitted: If your new employer offers a 401(k) plan, you could opt to roll over your previous plan directly into it. The benefit of doing this is that it does not matter how much money you have because there are no investment minimums. The drawbacks are that you may lose some flexibility by being bound to the plan's investment options and will not have access to the money unless you take a loan or leave the company. In addition, be aware of the potentially higher fees associated with some 401(k) plans.

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Roll over into a brokerage IRA: This can be done at almost any financial institution. Brokerage IRAs provide the most flexibility in terms of investment options, including offering Exchange Traded Funds (ETFs). There are thousands of options to choose from, many with low expenses or no investment minimums.

You can also buy individual stocks, mutual funds, individual bonds, and options and CDs. With a brokerage account, you may be charged every time you make a trade. Also, some brokers will charge a transaction fee that you would not have inside a 401(k) or directly with a fund company. To avoid these fees, you could open an account with a "free" or discount broker. However, other fees may apply such as account transfer fees, even with a free or discount broker.

Roll over into a mutual fund company IRA: This is the most inexpensive way to roll your money over. If you meet basic requirements, there are typically no commissions and no account fees. However, you are tied to the company's investment offerings, so you will not be able to invest in individual stocks or ETFs. You will also have investment minimums, usually between $500-$3,000 for a single fund.

Note: An investment in a money market fund is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. Although the Fund seeks to preserve the value of your investment at $1.00 per share, it is possible to lose money by investing in the Fund.

Investors should consider the investment objectives, risks, charges, and expenses carefully before investing. The prospectus contains this and other information about the Fund. You may obtain the prospectus and summary prospectus, if available, by contacting me. Read the prospectus and summary prospectus carefully before investing.

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Use the chart on the page 10 to help you determine if rolling over your 401(k) makes sense for your circumstances.

The tax implications of cashing out

The funds in your 401(k) are *yours*, and as such, you do have the option of cashing your money out of your former employer's plan to use as you wish. But generally, it is not a good idea to do so. Why? You will pay income tax plus a 10% penalty for early withdrawal if you are under age 59½. For Roth 401(k)'s only the earnings are subject to penalty and income tax, although in some cases, qualified early withdrawals are not subject to the penalty. Do not forget what you originally set the money aside for in the first place—your retirement. To stay focused on that goal, it is important not to cash out unless absolutely necessary.

Alternatively, consider taking a loan from your 401(k). There are some obvious advantages to using a loan if you need some of your funds. However, you should also check out the ground rules and repayment requirements with your 401(k) plan sponsor.

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Moving the Funds

Once you have decided to roll over your 401(k), there will be forms to fill out. Although the paperwork may seem daunting, if you understand the steps involved, the process may not seem so difficult.

- ❑ **Check rollover eligibility:** Check with your former provider to make sure there are not any additional penalties, fees, or restrictions to roll over your money, *and* that you appear in their records as a terminated employee. If you are still active in their records, they cannot release the money.

- ❑ **Obtain rollover forms:** Tell your former provider that you want to roll over your money and need the proper forms. Some providers only require a rollover request form from your new plan, if so, you can go right to the next step.

- ❑ **Check what is needed:** Ask your new provider what is needed to accept the rollover from your former employer. Regardless of the rollover option you choose, there will be a particular process that needs to take place. You may need to open up an account first, then submit a rollover form, or it could all be part of the same process. Make sure you have all the appropriate information you need from your previous provider to finalize everything.

- ❑ **Complete the forms:** Filling out the forms can be overwhelming because of all the information that is needed, so take your time, and double check that you have completed everything correctly and completely. IMPORTANT: Make sure you note on the form that you are making a direct rollover. This guarantees that the funds will go *directly* into the new account. Remember, you can always call the company and ask for help if you have questions.

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Avoid common pitfalls

Take time deciding about investments: Once your money is rolled over, you will need to decide on how to invest it. It is important to choose wisely based on your risk tolerance and time horizon to retirement. Keep in mind that it is essential to diversify your investments. Note: Diversification does not assure a profit or protect against a loss in a declining market.

Consider your *entire* portfolio: If this is not your only retirement account, you will need to look at all of your retirement accounts to determine whether your asset allocation is in line with your goals.

Professional advice is essential: Most people realize that making investment choices is frequently stressful because they lack the financial expertise.

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IRA Required Minimum Distribution Table

You must take out your first required minimum distribution by April 1 of the year after you turn 70½. For all subsequent years, you must take the money out of your accounts by December 31.

Here is the RMD table, based on data from the IRS:

Age	Distribution Period
70	27.4
71	26.5
72	25.6
73	24.7
74	23.8
75	22.9
76	22.0
77	21.2
78	20.3
79	19.5
80	18.7
81	17.9
82	17.1
83	16.3
84	15.5
85	14.8
86	14.1
87	13.4
88	12.7
89	12.0

SAMPLE

IRA Required Minimum Distribution Table (continued)

Age	Distribution Period
90	11.4
91	10.8
92	10.2
93	9.6
94	9.1
95	8.6
96	8.1
97	7.6
98	7.1
99	6.7
100	6.3
101	5.9
102	5.5
103	5.2
104	4.9
105	4.5
106	4.2
107	3.9
108	3.7
109	3.4
110	3.1
111	2.9
112	2.6
113	2.4
114	2.1
115 and over	1.9

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How to calculate your RMD

You can easily figure out how much you need to take out based on the RMD table. Here's how to do the calculation:

1. Determine the balance of your IRA account(s).
2. Find your age on the table and note the distribution period number.
3. Divide the total balance(s) of your account by the distribution period. This is your required minimum distribution.

Be sure you do this for all of the traditional IRAs you have in your name. Once you add up all of the required minimum distributions for each of your accounts, you may take that total amount out of any of your IRAs. You don't have to take the minimum distribution from each account as long as the total money you withdraw adds up.

This only applies to traditional IRAs, not Roth IRAs. Note that the above RMD table also doesn't apply to you if you have a spouse who is the sole beneficiary of your IRA and who is more than 10 years younger than you.

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Use this worksheet to Calculate Your RMD

EXAMPLE

You are 75 years old and the balance of your IRA account is $500,000:

Balance	$500,000
Distribution period for Age 75 *(use chart on pages 20 & 21)*	22.9

SAMPLE CALCULATION FOR REQUIRED MINIMUM DISTRIBUTION

Balance divided by distribution period

$500,000 divided by 22.9 = $21,834.06

This amount is the RMD you would have to withdraw for that year.

CALCULATE YOUR RMD HERE

Balance	$ ________
Distribution period for your age *(use chart on pages 20 & 21)*	________
RMD Balance divided by distribution period	$ ________

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RMD and Rollover NOTES

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