Congress Has Made Important Changes to Your Retirement Plan

Some good, some not so good

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In late 2019, Congress enacted the SECURE Act, which changed the federal tax code that governs 401(k) or IRA ("retirement assets"). Briefly, the SECURE Act offers you more opportunities to save for retirement but speeds up the time that your beneficiaries must withdraw and pay income tax on those retirement assets.

Changes Affecting You During Life

Under the SECURE Act, you won't have to take required minimum distributions (RMD) until age 72, up from 70½ under the old law, and the RMDs are still based on your life expectancy. In addition, the SECURE Act removes the age cap for funding traditional (non-Roth) IRAs so that you are now eligible to make contributions to a traditional IRA after age 70½. These changes allow more time for tax free-growth and for making contributions. Consult your accountant or financial advisor about how you might benefit from these changes in the law.

After Your Death

First, the New Year is a good time to check that your beneficiary designation forms accurately reflect your wishes. If you have existing beneficiary designations in place, those designations are still valid; however, the SECURE Act does introduce a host of new considerations that you must take into account in structuring your estate plan to maximize the retirement assets benefits and best protect your beneficiaries.

Perhaps the most significant changes affect the “stretch-out” of inherited IRAs. Before 1/1/2020, a qualified "designated beneficiary"—basically an individual rather than a charity or your “estate” or “heirs”—could take required minimum distributions based on his or her life expectancy. This lifetime stretch-out offered income-tax-free growth during the beneficiary's life, reduced the cumulative income tax paid on distributions, and protected the IRA assets from the beneficiary's creditors in some states, including Rhode Island. The law also permitted these advantages for retirement assets left in trust, as long as the trust was structured to meet certain requirements.

The SECURE Act now requires an inherited qualified plan or IRA to be fully distributed within 10 years of the participant’s death but does not require annual distributions during those ten years. If you had planned to leave your retirement assets to beneficiaries in trust to guarantee the stretch-out, they may not now qualify for the lifetime distribution. Certain designated beneficiaries may still take a lifetime distribution: your surviving spouse, your minor children (but not grandchildren), and beneficiaries who are disabled or chronically ill. Minor children will have to eventually take the full distribution within 10 years of reaching the age of majority, which is 18 in Rhode Island. Also, a beneficiary who is less than ten years younger than you, say a partner or sibling, can stretch out the withdrawals over his or her lifetime.

If you have named a trust as beneficiary of your retirement plan, that trust may require annual distributions to the beneficiary in the first ten years of your death even for a minor child instead of allowing an additional ten years of tax-deferred growth. Depending on your circumstances, other planning techniques may better achieve your goals.

If you have substantial assets in a qualified plan or IRA, I recommend that a review of your estate plan as soon as possible to take into account the SECURE Act changes. I would welcome the chance to discuss these changes with you, answer any questions you may have, and make recommendations specifically for you. Please call (401.272.1400) or email me (zdouthit@shslawfirm.com) to arrange a meeting or phone conference at your convenience so that we can find the best planning solutions to meet your needs and those of your family.