ESTATE PLANNING

OAKS, HARTLINE & DALY
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THE SECURE ACT

EFFECTIVE JANUARY 1, 2020

The two main provisions of the new SECURE ACT are: (1) increasing the age a from **70½ to 72** at which you must take minimum required distributions or RMDs, and (2) eliminating the **STRETCH IRA**.

Under existing law, Minimum Required Distributions of an Inherited IRA could be **stretched** over the lifetime of the beneficiary. This means a 50-year-old IRA beneficiary would have to take RMDs over the course of 34.2 years. A 12-year-old beneficiary would have been allowed to keep the plan in place and take RMDs based on his or her life expectancy of 70.8 years.

The SECURE ACT provides the Inherited IRA beneficiary must take payment of the **entire** IRA within 10 years. This does not apply to the surviving spouse, minors, ***until*** they reach majority, disabled beneficiaries, and in some other special cases. Thus, if an adult child is the beneficiary of an inherited IRA, the child may take distributions anytime for 10 years, but as of December 31 of the 10th year, the entire IRA must be distributed. Any distribution from an IRA is taxable as ordinary income to the beneficiary.

Ordinarily, the primary beneficiary of an IRA is the surviving spouse, and the contingent beneficiary is a trust for children. There are two types of trusts used by estate planners as beneficiaries:

1. A **complex accumulation trust** in which the distribution is transferred from the inherited IRA to the trust, and the trustee decides if it should be retained by the trust or distributed to the trust's beneficiary. The amount of the RMD is determined by using the age of the oldest beneficiary of the trust. The trustee determines if more than the minimum required distribution is taken from the IRA.

2. A **conduit trust** is one that requires that any IRA distributions payable to the trust immediately pass out of the trust to the named beneficiary. Some conduit trusts provide that only minimum required distribution can be made from the Inherited IRA. Under the SECURE ACT, the minimum required distribution does not occur for 10 years—that means the trustee of this type of conduit trust would not be permitted to make payment until the end of 10 years, and at that time the entire IRA would be paid and taxable to the beneficiary. Clients with conduit trust beneficiaries should consider changing to complex trusts as beneficiaries, allowing the trustees to determine when distributions should be pulled from inherited IRAs and 401(k)s, and whether or not distributions from the trust should be made to the beneficiary. Other tax planning techniques, such as the use of charitable remainder trusts or paying the income tax with last-to-die life insurance, should be considered.

All Clients with substantial IRAs should review their beneficiary designations to see if changes are warranted under the Secure Act.


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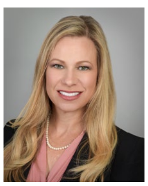
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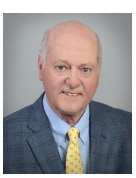
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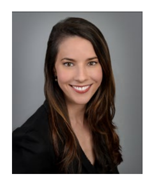
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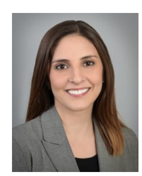
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