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Partner Talk®

February 2020

Are you feeling SECURE?

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By now you may have heard about the recently passed SECURE Act of 2019 – which stands for "Setting Every Community Up for Retirement Enhancement." The bill was signed into law in late December and took effect on January 1, 2020. This new law had heavy bipartisan support and passed almost unanimously in the House of Representatives (417-3) and the Senate (81-11). The SECURE Act is regarded as being one of the most significant pieces of retirement plan (IRA's) and education account (529 Plans) legislation in more than a decade. The SECURE Act also makes numerous changes to both the Internal Revenue Code (IRC) and the Employee Retirement Income Security Act that will expand retirement plan coverage for workers and increase savings opportunities. This briefing is not intended to cover every intricacy of this legislation but to highlight some of its key provisions and explain what this might mean for retirement investors.

PMA clients and their beneficiaries may be affected by the SECURE Act in several ways. First, the Act eliminated the so called "Stretch" IRA. Previously beneficiaries of IRA's could "stretch" the required minimum distributions (RMDs) from the inherited IRA over their lifetime. Now, however, when retirement account owners pass away, non-spouse beneficiaries will have only 10 years to empty the inherited IRA account and will thus within this period be required to pay all the taxes due on the distributions. This new accelerated payout rule applies to all beneficiaries except for a surviving spouse, minors, those beneficiaries that are disabled or chronically ill, and beneficiaries that are not more than 10 years younger than the account owner. Exempted beneficiaries can instead continue to "stretch" payouts over their lifetime. While proponents of the new legislation say that the SECURE Act was designed to strengthen retirement security across the country and that it aims to give investors more incentive to boost retirement savings, this revision of long-standing IRA rules is considered by

some as especially unfair to aging parents and their beneficiaries who relied on longstanding rules. And, a final twist, there are now no annual RMDs for such inherited IRA accounts, instead the distribution schedule is at the owner's discretion so long as the account is empty by the end of the 10th year following death of the original account owner.

With these new rules clients who had planned on passing on an IRA to their children may want to reexamine their estate planning. The once prudent strategy of letting IRA assets accumulate (while taking the necessary RMDs) and spending down taxable accounts may change completely depending on you or your beneficiaries' financial situation. As an example, some clients may now find it more beneficial to spend down IRA accounts, with a portion going to charities, and passing on the accumulated taxable assets to children who will get a step-up in basis (tax free). (Now is also a good time to review your IRA beneficiaries). And if you have made a trust the beneficiary of your IRA, often created at death in your will, that strategy will now need reconsidering. If you have set up a conduit trust, under these new 10-year payout rules, this potentially creates a huge tax burden with no real value added. This necessitates a review of trust documents and perhaps revisions to the trust language.

One clear benefit of the SECURE Act is that RMDs may now be delayed until IRA account owners are age 72. As a result, IRA owners could see significant increases to the amount of money that is able to remain in their tax-deferred accounts. Perhaps this adjustment is to make up a little for the damaging effects of the elimination of the "Stretch" IRA. This change will apply to individuals who turn 70 ½ after December 31, 2019. So, you can continue to contribute to your IRA as long as you earned compensation at some point during the year of your contribution. If this is your situation, you will want to take advantage of this tax deferral opportunity.

Another possible planning opportunity relates to a so-called "back-door" conversion from a traditional IRA to a Roth IRA. The goal is of course to pay less taxes today than in the future. Since we do not know what the future holds for tax laws, perhaps paying the taxes now (through a Roth "back-door" conversion) in order to reap the benefit of tax-free income in the future (and no RMDs from Roth accounts) could be beneficial in the long run. There are particular situations where Roth conversions make sense, such as, if the money is intended for heirs whose tax bracket is likely to be at least as high as the account owner's. So, if the money will be left to an heir in their peak earning years a Roth conversion may be wise. An ideal time for a Roth conversion can be after retirement but before RMDs begin. However, one must be careful to avoid too-large a conversion so as to avoid getting bumped up into a higher tax bracket. Clients will want to consult with their tax professional on this issue.

If you are charitably inclined there could potentially be a need for you to review your current charitable giving strategy. For instance, some clients might benefit nicely by gifting their IRA RMDs directly to charities. An individual who is age 70 ½ or older could use a qualified charitable distribution (QCD) to give to a qualified charitable organization. One of the biggest advantages that the QCD provides is the ability for you to lower your adjusted gross income (AGI) and effectively reduce your income taxes. Please note that QCDs are capped at $100,000 per taxpayer per year. Also, remember that when it comes to QCDs the distributions must be made directly to the charity, not to the owner or beneficiary. The distribution check must be made out to the charity or it will be counted as a taxable distribution.

For 529 Plans for education expenses, there are some changes that allow for more usage of these accounts. Now one can take tax-free distributions from 529 Plans for fees, books, supplies and equipment for certain apprenticeship programs and up to $10,000 for student loan repayment.

Interestingly, this new law does not speak to the ongoing issues concerning Social Security, Medicare, or Medicaid. It seems certain that in the future we will have more legislation to address these important and expensive programs.

As with any new legislation, there is a potential need for planning. PMA is ready to help our clients understand and navigate these changes. As new planning situations arise please do not hesitate to contact us.