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Planner Article: What the Recent SECURE Act Means for You

Evon Mendrin, CFP®

Though it was thought left for dead, Congress finally passed the SECURE Act (Setting Every Community Up for Retirement Enhancement) on December 19, 2019. Earning a solid 9 out of 10 on the catchy law name creativity scale, the Act marks the second major new law affecting our financial planning in the last two years. At first glance, it seems to provide some relatively minor improvements for retirement planning, while creating one considerable drawback. Let's take a look at what the SECURE Act means for you.

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Staff Adventure: Darci's Hiking Trip

Darci Roach

This past fall, my husband Nick and I took a road trip to my family's ranch in northern New Mexico. While we were there, we visited with family and hiked all over the 10,000 acres of land. We came across a lot of interesting things; a few of our favorites included a wide range of wildlife, Native American ruins, and the original homestead site for the first ancestors that settled on the ranch. I genuinely love photography, so when a chance to take photos presented itself, I packed up my camera and tripod and jumped at the opportunity.

While we were out exploring, we had ample opportunities to see wildlife. We saw many elk, deer, birds, and even one rather grouchy porcupine (who refused my attempts at photos). We both love the chance to slow down and be outdoors, so we really enjoyed climbing to the top of the mesas just to sit and look at the landscape below.



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Staff Adventure: Darci's Hiking Trip

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One of the climbs took us up to the ruins of a Native American settlement. There was a lot of evidence of tribal life, including a small stone structure that is still standing today. I was told to keep my eye out for arrowheads on the ground, but unfortunately, I did not have any luck finding any (though not for lack of trying).

Another interesting site we inadvertently came across was a strange cave-like dwelling, complete with a couch carved from stone. We were informed by a relative that when the land was initially settled, the family created a makeshift shelter under a large rock while their cabin was being built. An ambitious woman actually hand carved a large boulder into a couch so that the family had



somewhere to sit.

There are a lot of great things to see in New Mexico, and we both enjoyed being able to see a little more of our big beautiful country. However, I think I still prefer our lovely Sierra Nevadas above all else.



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Required Minimum Distributions (RMDs) - 72 is the new 70 ½

The Old: Before the law passed, the government required a minimum annual amount be withdrawn from your Traditional IRA, SEP IRA, SIMPLE IRA, or your company-sponsored retirement accounts once you turned age 70 ½.

The New: Under the new rule, these distributions don't need to start until you turn 72. The impact? This makes it easier to figure the timing and allows the funds to continue deferring a bit longer. This also gives extra time for strategies like partial Roth IRA conversions or realizing gains on assets at favorable tax rates. Thumbs up!

The law applies to you if you turn 70 ½ **in 2020 or later**. So, if you turned 70 ½ on or before December 31, 2019, unfortunately you're still under the old rules.

Traditional IRA Contributions at Any Age!

The Old: Under old rules, you couldn't continue making Traditional IRA contributions once you turned age 70 ½.

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The New: The SECURE Act removes the prohibition! People of any age can now contribute. However, you still need to have “compensation” (typically wages or self-employment income) to justify the contribution.

The impact? Another retirement saving option for those working past age 70 ½. This is especially useful for those doing what we call “2-steps” or “backdoor Roth IRA contributions”. That is, making a non-deductible Traditional IRA contribution, then immediately converting it to a Roth IRA. This is a helpful (and totally legal) way to get money into a Roth IRA when your income exceeds the limits for a direct contribution.

Qualified Charitable Distributions (QCDs) and IRA Contributions

The Old: QCDs allow you to send up to \$100,000 from your pre-tax Traditional IRA *directly* to a qualified charity without any taxable income. This also satisfied a portion of your RMD.

The New: You can continue to make QCDs from your IRAs (and Inherited IRAs) after turning 70 ½. However, now that IRA contributions continue past 70 ½, there is an “anti-abuse” rule. The amount of QCDs you can make to charity (that’s not counted as taxable income) is lowered by the amount of total deductible IRA Distributions you make after age 70 ½. That excluded amount can be an itemized charitable deduction.

The rule keeps you from double dipping deductions. You can’t contribute to your IRA, take a deduction, then immediately send it to charity without it being taxed.

The impact? There’s some additional record keeping and coordinating in this situation.

Access to Retirement Accounts for Childbirth and Adoption

The Old: Generally, withdrawals from an IRA or retirement plan before age 59 ½ come with a 10% early withdrawal penalty. There are certain exceptions to this rule (first home, death, disability, education, etc.) depending on the type of account.

The New: The new law added an additional exception for childbirth and adoption! You can now withdraw up to \$5,000 to be distributed penalty-free from an IRA or retirement plan for “qualified birth or adoption”. The withdrawal must be within one-year after the date of birth or an adoption of child under 18 is finalized. Note, this can’t be withdrawn *before* birth or adoption to pay for hospital or adoption expenses. But it can be taken after to help replenish cash spent. The \$5,000 limit is also *per child* born or adopted, not per parent. You can also “repay” the amount withdrawn to the IRA/plan it came from.

The impact? While considered a last-resort option, there’s more flexibility in accessing retirement funds when needed for this often-expensive time in life.

The End of the “Stretch” Provision for Inherited IRAs

The Old: Here’s the catch, dear clients. The government provides rules for how an inherited IRA should be handled and whether withdrawals are required. Under prior law, a designated beneficiary (typically a human, certain trusts) could choose to stretch withdrawals over his/her lifetime. A spouse could choose to treat the IRA as his/her own.

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The New: Under the SECURE Act, this “stretch” ability is no longer an option. Now, it’s replaced by a ‘10-year rule’. Under this rule, the entire inherited retirement account must be emptied by the end of the 10th year after death. Before the 10th year, there are no required distributions.

Certain “eligible designated beneficiaries” get to use the same old rules as prior law. These are:

- Spouses
- Disabled (per their definition)
- Chronically ill (per their definition)
- Beneficiaries not more than 10 years younger than the deceased IRA owner
- Minor children of the deceased account owner, until they reach age of majority

The impact? This is a major drawback for estate planning with IRAs. Those inheriting IRAs that are not spouses or “eligible” beneficiaries are now forced to take the entire balance within 10 years. For Traditional IRA owners, this can force a lot of taxable income into a shorter time period. For Roth IRA owners, this stops a lifetime of tax-free compounding.

At minimum, this triggers a review of retirement plan beneficiaries. This also forces a review of Trust documents that are beneficiaries of IRA accounts and were written to comply with the necessary rules. They may be written to meet “stretch” provisions and required annual withdrawals that no longer exist!

This is a rough summary of the new law. We’ll be reviewing the recent laws, considering how they apply to each of our clients, and discussing actions to take (if any) with you and your attorney this year.

It’s never a dull moment in the financial world! Happy New Year, and a healthy, joyful, and prosperous 2020 to all!

Important Notice Regarding Schwab 1099s

IMPORTANT NOTICE: Tax time is upon us. In addition to traditional dividend and interest reporting, all cost basis information will be reported on your Schwab 1099 for 2019. All Schwab 1099s will be mailed by February 28, 2020. As always, corrected 1099s can occur, if the information reported requires an adjustment. Hopefully, these corrected 1099s will be limited.

Please share this information with your accountant and feel free to call with questions.
