Business Retirement Solutions

Business Retirement Plans

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Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019

- Congress passed the SECURE Act
  - Voted on in the Senate with 71-23 in favor, as part of an eight-bill $1.4 trillion spending package signed into law by President Trump on December 20, 2019
  - Passed in the House of Representatives in May with 417-3 vote
- Effective January 1, 2020
  - Addresses provisions to reform workplace retirement plans and expand retirement savings
  - For small businesses, it offers tax incentives to establish automatic enrollment in retirement plans for workers
  - Help employers establish retirement plans
  - Ease non-discrimination rules for frozen defined benefit plans
  - Safe harbor for selecting lifetime income providers in defined contribution plans
  - The law impacts IRAs, 529 accounts, and 401(k) Plans

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Required Minimum Distribution (RMD) and Contribution Age Raised

- The withdrawal age has been changed from 70½ to age 72
  - Currently, RMDs generally must begin in the year the taxpayer turns 70½
  - If the beneficiary is the IRA owner's spouse, RMDs are delayed until the end of the year that the deceased IRA owner would have reached age 72 (it used to be age 70½ prior to the SECURE Act)
- This change would be effective for required minimum distributions for individuals who attain age 70 ½ after December 31, 2019
- IRA contributions have been extended beyond 70½ as long as the taxpayer is working
  - Previously, contributions to IRAs were capped at age 70½
    - This is now repealed
- Roth IRAs have no age-based restrictions on contributions

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Changes in Stretch IRA distributions to delay taxes as part of an Estate Plan

- The SECURE Act eliminates the "stretch IRA," an estate planning method that allows IRA beneficiaries to stretch their distributions from their inherited account and the required income tax payments based on their life expectancy
- For non-spouse beneficiaries receiving IRA inheritances, the SECURE Act accelerates payouts
  - Beneficiaries were previously allowed to withdraw RMDs based on their life expectancy, deferring taxation of the withdrawals
  - Under the SECURE Act, beneficiaries must withdraw all assets of an inherited account within 10 years
    - There are no minimum distribution amounts, but the entire balance must be distributed after the 10th year
- There are some exceptions:
  - If the non-spouse beneficiary is a minor, disabled, chronically ill or not more than 10 years younger than the deceased IRA owner
  - For minors, the exception applies only until the child reaches the age of majority, at which point the 10-year rule is enforced

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Penalty-free Withdrawals Added Exceptions

- The SECURE Act will allow withdrawals from a 401(k), IRA, or other retirement account prior to age 59½ for child birth and adoption cost without penalty
  - Withdrawals will be allowed, up to $5,000, without paying the usual 10% early withdrawal penalty
  - Distributions will be treated as taxable income
  - Each spouse can withdraw $5,000 from their own account, penalty-free
  - Taxpayers have one year from the date the child is born, or adoption is finalized, to withdraw the funds from the retirement account without paying the 10% penalty

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Grad Students and Care Providers are allowed to contribute to IRAs

- Prior to the SECURE Act, contributions to a retirement account couldn't exceed earned income
  - Graduate and post-doctoral students receiving stipends were not allowed to contribute
  - Similarly, payments that foster-care providers received for the care of disabled people in their home didn't qualify
- Under the SECURE Act, the amount paid to graduate, post-doctoral, research students and care providers will be treated as compensation for purposes of making IRA contributions

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Changes in 401(k) Plans

- The SECURE Act will permit employers to offer annuities as investment options within 401(k) plans
- Insurance companies issuing annuities will have a fiduciary responsibility to offer suitable annuity options to participants
  - Employers will be protected from legal action
- The SECURE Act requires 401(k) plan administrators to provide "lifetime income disclosure statements" annually to plan participants

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Employer-Sponsored Retirement plans

- The SECURE Act will be attractive for small business owners to set up retirement plans for employees
  - The new Act will let more small businesses band together to offer Multiple Employer Plans or MEPs
  - Allows two or more unrelated employers to join a pooled employer plan
  - Pooled plan provider would be responsible as the ERISA 3(16) plan administrator and named fiduciary
  - This provision is effective for plan years beginning after December 31, 2020
- Employer-sponsored plans will be available to long-term part-time workers
  - The SECURE Act drops the threshold eligibility down to either one full year with 1,000 hours worked or three consecutive years of at least 500 hours
  - This change would be effective for plan years beginning after December 31, 2020

Administrative improvements and safe harbors for qualified plans

- Safe harbor cap on automatic enrollment and deferral escalation increased from 10% to 15%
  - Still limited to 10% cap in first year of enrollment
- Safe harbor 401(k) status
  - Safe harbor notice requirements eliminated for non-elective contributions
  - The SECURE Act would permit a plan to be amended to become a non-elective safe harbor plan for a plan year:
    - Any time before the 30th day before the closed of the plan year
    - On or after the 30th day before the end of the year as long as the amendment is made by the close of the following plan year, and the non-elective contribution is at least 4%

Administrative improvements and safe harbors for qualified plans

- Startup credit for small employer plans expanded
  - Employers with <100 employees are eligible for an annual tax credit for three years equal to 50% of certain costs paid or incurred in connection with starting a retirement plan, up to a cap on the annual credit of $500
- The $500 annual cap would be increased to the greater of:
  - $500
  - The lesser of $250 for each non-highly compensated employee who is eligible to participate in the plan or $5,000
- New credit for small employers adopting automatic enrollment
  - Employers with <100 employees would be eligible for a credit of $500 per year for three years, beginning with the first taxable year for which the employer includes automatic enrollment in a qualified employer plan (this can be in addition to the startup credit above)
- Portability of lifetime income investments

Administrative improvements and safe harbors for qualified plans

- Plan adoption deadline
  - Employer can now adopt a plan for a taxable year as long as the plan is adopted by the due date of the employer's tax return for that year, including extensions
    - This applies to plans adopted for taxable years beginning after December 31, 2019
- Consolidated Form 5500 reporting for similar plans
  - Individual account plans or defined contribution plans
  - Have same trustee, named fiduciary(ies) and administrator
  - Use the same plan year
  - Provide the same investment or investment options
  - Must apply to returns for plan years beginning after December 31, 2021

Administrative improvements and safe harbors for qualified plans

- Increased Form 5500 and other filing penalties
  - Penalty for failure to file Form 5500 would be increased from $25 to $250 for each day during which the failure continues, and the maximum penalty that may be imposed would be increased from $15,000 to $150,000
  - Applies to returns, statements, and notifications that are required to be filed and to notices that are required to be provided, after December 31, 2019
- In-service distributions at 59 ½ for pensions
  - Distributions now allowed at age 59 ½ for defined benefit plans and governmental 457(b) plans
  - These changes would apply to plan years beginning after December 31, 2019
- Relief for closed defined benefit plans
  - Allows aggregated testing of benefits basis with one or more defined contribution plans

New Rules for Borrowing from 401(k) accounts

- The SECURE Act continues to allow loans as much as 50% of your 401(k) balance without exceeding $50,000 with a repayment of five years and longer if used to buy a home
- The SECURE Act prohibits 401(k) loans be provided through the use of credit card or debit cards

529 Plans

- Currently, 529 education saving plans must be used for qualified education expenses
- The SECURE Act expands the definition to include student loan payments up to $10,000 (cumulative, not annual) and costs of apprenticeship programs

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Questions?

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RETIREMENT & BENEFIT PLAN SERVICES

- Thorough needs assessment and plan evaluation
- Advocacy and assistance with plan design and implementation
- Guidance in selecting plan investments
- Help in understanding and managing fiduciary responsibilities
- Ongoing employee education and communication support

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