Advanced Sales

Setting Every Community Up for Retirement Enhancement Act and Other 2019 Year-end Tax Changes

This material reflects our understanding of the Setting Every Community Up for Retirement Enhancement Act (SECURE Act), enacted on December 20, 2019. It is not intended to cover all provisions of the act or its potential impacts. Some provisions may require action by the Treasury Department, the Internal Revenue Service, or both so that they can be fully implemented. We expect the Treasury Department and IRS to provide guidance on areas that may be unclear.

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Retirement Plan and IRA Provisions Affecting Individuals		
An individual who attains age 70 ½ by the end of the year cannot make an annual contribution to a Traditional IRA (deductible or non-deductible).	The age limitation has been repealed. Any contributions made post age 70 ½ reduce the amount of any excludable Qualified Charitable Distributions by the sum of all post 70 ½ deductible IRA contributions (except for those that reduced a prior year's charitable distribution). Effective for taxable years beginning after 2019.	Provides consistency regarding IRA contributions, as there has never been an age restriction on Roth IRAs. Normal limits/restrictions apply to the deductibility of the contributions.
Required Minimum Distributions (RMDs) begin in the year the owner turns age 70 ½ and the first RMD must be distributed no later than April 1st of the following year. A special rule allows RMDs from qualified plans to be delayed if the participant is still working at 70 ½ and does not own at least 5% of the employer sponsoring the plan.	The age 70 ½ trigger for RMDs to begin on Traditional IRAs is raised to the year in which the IRA holder attains age 72 with the latest distribution date for the first RMD being the following April 1st. No change to the special rule for less than 5% owners. Effective for distributions after 2019 for individuals who attain age 70 ½ after 2019.	Individuals who attained age 70 ½ in 2019 will still need to take RMDs for 2019 and 2020, even though they may not attain age 72 until 2021.
Generally, non-spouse beneficiaries RMDs must begin the year after the IRA owner or participant passes away and those annual RMDs are based on the life expectancy of the beneficiary. Full distribution of the account by December 31st of the fifth year after the IRA owner or participant's death is an additional option if the deceased passes away before April 1st of the year after attaining age 70 ½. A surviving spouse beneficiary may elect to make a "spousal rollover," which allows them to transfer funds to their own qualified plan or IRA.	Upon the death of the IRA owner or defined contribution plan participant, the "designated beneficiary" would be required to draw down the entire inherited interest by December 31st of the year that contains the tenth anniversary of the IRA owner or participant's death. The 10-year rule would not apply to the following "eligible designated beneficiaries": (1) The surviving spouse of the IRA owner or plan participant, (2) A child of the IRA owner or participant who has not attained the age of majority (10-year rule would apply as of the date the child attains the age of majority), (3) A beneficiary who is disabled or chronically ill,	This compressed distribution period will result in many beneficiaries paying higher taxes on distributions from inherited IRAs and qualified plan accounts. Clients planning to leave IRAs or qualified plans to individuals who do not qualify as "eligible designated beneficiaries" should consult their estate planning attorney to explore options Those with significant IRAs and/or qualified plan balances should review their estate planning strategies for IRAs and qualified plans. These rules may apply differently to trusts and estates than they do to individual beneficiaries. Trusts intended to be beneficiaries of IRAs and qualified plans should be reviewed for changes desired or needed. Naming trusts as

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	(4) A beneficiary who is not more than 10-years younger than the IRA owner or plan participant. Generally effective for deaths that occur after 2019.	beneficiaries may no longer accomplish clients' goals. The 10-year rule does not apply to "binding" annuity contracts that have been annuitized or have been irrevocably set to annuitize as of December 20, 2019.
Amounts such as taxable stipends and fellowships paid to help an individual with respect to graduate study or research are not compensation for purposes of IRA contributions.	These stipend payments are now considered compensation used in determining allowable IRA contributions. Effective for taxable years beginning after 2019.	Opens up an IRA contribution opportunity for students who have little or no income other than graduate study or research stipends.
Withdrawals from IRAs or defined contribution plans upon the birth or adoption of a child are subject to the 10% early distribution penalty unless another exception applies.	New exception for amounts withdrawn, up to $5,000, from an IRA or defined contribution plan (including a 403(b) plan) within one year after the birth or adoption of a child. Any portion of a qualified birth or adoption distribution may be recontributed. The re-contribution is treated as a rollover and not subject to the annual contribution limits or the 60-day rollover requirement. Effective for distributions after 2019.	Creates new exception to the early distribution penalty on withdrawals from qualified accounts. The normal tax rules apply to the distribution.
Provisions Affecting Employers and Qualified Plans		
Employers with up to 100 employees entitled to annual retirement plan start-up credit for three years equal to 50% of the cost of establishing and administering the plan, up to an annual credit of $500.	Increases the $500 annual cap to the greater of: $500, or lesser of: $5,000, or $250 for each non-highly compensated eligible participant. Effective for taxable years beginning after 2019.	Potentially lowers the cost for small employer that wants to start a qualified retirement plan. Additional annual credit of $500 for three years if small employer plan sponsor adds auto-enrollment feature to new or existing plan.
None	Employers can qualify for a tax credit of up to $500 per year for new 401(k) and SIMPLE IRA plans that provide elective deferrals at a specified rate begin when an employee becomes eligible to participate unless the employee elects a different rate or not to	Makes including automatic enrollment in a 401(k) or SIMPLE IRA plan more attractive.

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	participate. This is known as automatic enrollment. The credit is available for the three years beginning with the first year that the plan offers automatic enrollment. Available in addition to the start-up credit described above. Effective for tax years beginning after 2019.	
Employers offering defined contribution plan with guaranteed retirement income option (annuity) must make determination of whether insurance company is financially able to make all future guaranteed payments under the annuity contract.	Provides fiduciary safe harbor for plan sponsor that engages in an objective, thorough and analytical search for insurers and when considering their financial capability to satisfy future obligations can rely on representations from the insurers regarding their status under state insurance law. Effective December 20, 2019.	A plan fiduciary that satisfies the new requirements is not liable for any losses that may result due to an insurer's inability to satisfy its financial obligations under the terms of the contract. Likely to see more defined contribution plans add future guaranteed income option now that safe harbor has been provided in regards to selection of insurance company provider.
If an annuity option is no longer allowed as a plan investment, future plan contributions cannot be allocated to the option. Distribution of the annuity to the participant may not be permitted or may result in income tax and potential 10% penalty to the participant.	Annuities may be distributed to the participant, in-kind, when no longer allowed as a plan investment option. Effective for plan years beginning after 2019.	Combined with the fiduciary safe harbor described above, we expect more defined contribution plans will offer annuities as plan investments.
Generally employers sponsoring a qualified retirement plan may exclude part-time employees (i.e. those who perform less than 1,000 hours of service in a year) from participation.	Employers maintaining a 401(k) plan must have a dual eligibility requirement. Employee must complete either 1) one-year of service under the 1,000 hour rule, or 2) three consecutive years of service where they perform at least 500 hours of service each year. Effective for plan years beginning after December 31, 2020, except for purposes of the new eligibility criteria, 12-month periods beginning prior to January 1, 2021 are not taken into account.	Provides the opportunity for long-term part-time employees of employers sponsoring a 401(k) plan to increase their retirement savings by participating in the plan. Plans do not have to provide matching contributions for employees participating solely because they have three consecutive years of 500 hours of service.

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Plan loans can be made through the use of a credit card or similar arrangements.	Plan loans cannot be made through credit cards or similar arrangements. Any loans made through these arrangements are treated as a deemed distribution and generally taxed as an actual distribution, subject to income tax and the 10% early distribution penalty unless an exception applies. Effective for loans made after December 20, 2019.	Restricts plan loans to those made through a formal loan process.
Plans must be adopted by the last day of the taxable year for it to be treated as maintained for the year. Contributions do not need to be made until the due date (plus extensions) of the employer's tax return for the year.	An employer may elect to treat a plan adopted after the end of a taxable year but before the due date (plus extensions) of the employer's tax return as having been adopted as of the last day of the taxable year. Effective for taxable years beginning after 2019.	Allows employers to determine after the end of a year that its profits are sufficient to support the establishment of a qualified plan. Employee contributions under a 401(k) plan must still be made during the plan year and cannot be made if the plan was adopted after the end of the year.
Cost efficient Multiple Employer Retirement Plans (MEPs) only available to unrelated employers in the same industry or that reside in same geographical area.	Removes the common interest requirement. Effective for plan years beginning after December 31, 2020.	Should be easier for employers to create or join MEPs allowing for economies of scale, which may lower cost to plan sponsors and the participants, making offering a plan more attractive to employers.
Other Provisions		
Section 529 plans offer tax-favored savings options to pay for higher education expenses.	• Allows tax-free distributions for fees, books, supplies, and equipment required for participation in an apprenticeship program. • Allows tax-free distributions for up to $10,000 of distributions over an individual's lifetime to make payments on student loans. Retroactive—effective for distributions made after December 31, 2018.	May make section 529 plans more attractive because tax-free distributions are allowed for more purposes.
Unearned income of children under 19 (and some up to age 24) above $2,200 is subject to tax at the income tax rates applicable to trusts and estates.	Unearned income of children under 19 (and some up to age 24) above $2,200 is subject to tax at the income tax rate applicable to their	May reduce the tax on unearned income of children. Children subject to the kiddie tax in 2018 may be able to receive a refund by filing an amended return

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	parents if higher than the child's rate. Effective for 2020 and later years but parents may elect to apply this change to 2018 and 2019.	electing to apply the change to 2018. For 2019, tax returns for children with unearned income should be computed under the old and new law to determine which produces the lowest tax.
Medical expenses are deductible only if they exceed 10% of adjusted gross income (AGI).	Reduces the 10% limit to 7.5%. Effective for 2019 and 2020.	The lower floor allows more taxpayers to deduct medical expenses
Through 2017, individuals could deduct qualified tuition and related expenses paid during the year in computing their adjusted gross income, subject to a phase-out based on income. No deduction was allowed for years after 2017.	Extends the deduction through 2020.	Taxpayers may want to amend their 2018 tax return if they qualify for the deduction.