# Legislative Updates

## The Setting Every Community Up For Retirement Enhancement (SECURE) Act of 2019

### New Spending Package Includes Sweeping Retirement Plan Changes

The $1.4 trillion spending package enacted on December 20, 2019 and recently signed by the President, included the Setting Every Community Up for Retirement Enhancement (SECURE) Act, which overwhelmingly passed the House of Representatives in the spring of 2019, but then subsequently stalled in the Senate. The SECURE Act represents the most sweeping set of changes to retirement legislation in more than a decade.

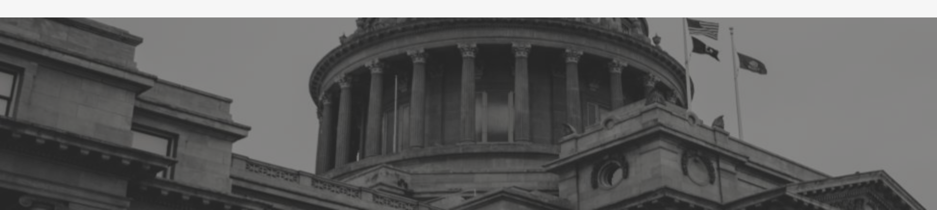
While many of the provisions offer enhanced opportunities for individuals and small business owners, there is one notable drawback for investors with significant assets in traditional IRAs and retirement plans. These individuals will likely want to revisit their estate-planning strategies to prevent their heirs from potentially facing unexpectedly high tax bills. Read more on this below.

All provisions take effect on or after January 1, 2020, unless otherwise noted.

### Elimination of the “Stretch IRA”

Perhaps the change requiring the most urgent attention is the elimination of longstanding provisions allowing non-spouse beneficiaries (usually one’s children) who inherit traditional IRA and retirement plan assets to spread distributions — and therefore the tax obligations associated with them — over their lifetimes. This ability to spread out taxable distributions after the death of an IRA owner or retirement plan participant, over what was potentially such a long period of time, was often referred to as the "stretch IRA" rule. The new law, however, generally requires any beneficiary who is more than 10 years younger than the account owner to liquidate the account within 10 years of the account owner's death unless the beneficiary is a spouse, a disabled or chronically ill individual, or a minor child until they reach the age of majority. This shorter maximum distribution period could result in unanticipated tax bills for beneficiaries who stand to inherit high-value traditional IRAs. This is also true for IRA trust beneficiaries, which may affect estate plans that intended to use trusts to manage inherited IRA assets. If an individual currently has a trust named as a beneficiary, it is recommended to review and possibly update your estate plan.

In addition to possibly reevaluating beneficiary choices, traditional IRA owners may want to revisit how IRA dollars fit into their overall estate planning strategy. For example, it may make sense to consider the possible implications of converting traditional IRA funds to Roth IRAs, which can be inherited income tax free. Although Roth IRA conversions are taxable events, investors who spread out a series of conversions over the next several years may benefit from the lower income tax rates that are set to expire in 2026.



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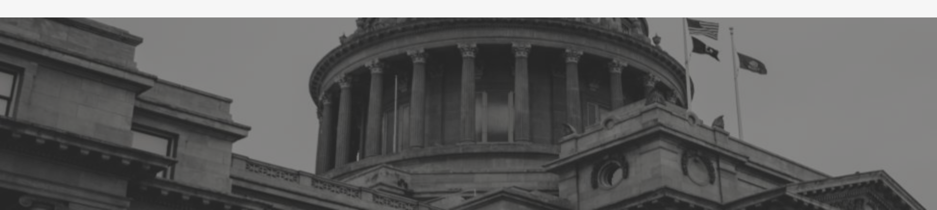
### Benefits to Individuals

On the plus side, the SECURE Act includes several provisions designed to benefit American workers and retirees.

- People who choose to work beyond traditional retirement age will be able to contribute to traditional IRAs beyond age 70½. Previous laws prevented such contributions.
- Retirees will no longer have to take required minimum distributions (RMDs) from traditional IRAs and retirement plans by April 1 following the year in which they turn 70½. The new law generally requires RMDs to begin by April 1 following the year in which they turn age 72. The RMD change to 72 only applies to those that turn 70½ in 2020 and beyond. Those that turned 70½ in 2019 are still under the old rules.
- The age for Qualified Charitable Contributions is still 70½, so individuals can make charitable contributions up to $100,000 directly from their IRA before RMDs begin at age 72, creating a unique opportunity for charitably included individuals.
- Part-time workers age 21 and older who log at least 500 hours in three consecutive years generally must be allowed to participate in company retirement plans offering a qualified cash or deferred arrangements. The previous requirement was 1,000 hours and one year of service. (The new rule applies to plan years beginning on or after January 1, 2021.)
- Workers will begin to receive annual statements from their employers estimating how much their retirement plan assets are worth, expressed as monthly income received over a lifetime. This should help workers better gauge progress toward meeting their retirement-income goals.
- New laws make it easier for employers to offer lifetime income annuities within retirement plans. Such products can help workers plan for a predictable stream of income in retirement. In addition, lifetime income investments or annuities held within a plan that discontinues such investments can be directly transferred to another retirement plan, avoiding potential surrender charges and fees that may otherwise apply.
- Individuals can now take penalty-free early withdrawals of up to $5,000 from their qualified plans and IRAs due to the birth or adoption of a child. The $5,000 amount is a per child limit and can be used for each subsequent child. Regular income taxes will still apply, so new parents may want to proceed with caution.
- Taxpayers with high medical bills may be able to deduct unreimbursed expenses that exceed 7.5% (in 2019 and 2020) of their adjusted gross income. In addition, individuals may withdraw money from their qualified retirement plans and IRAs penalty-free to cover expenses that exceed this threshold (although regular income taxes will apply). The threshold returns to 10% in 2021.
- 529 account assets can now be used to pay for student loan repayments ($10,000 lifetime maximum) and costs associated with registered apprenticeships.



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### Benefits to Employers

The SECURE Act also provides assistance to employers striving to provide quality retirement savings opportunities to their workers. Among the changes are the following:

- The tax credit that small businesses can take for starting a new retirement plan has increased. The new rule allows employers to take a credit equal to the greater of (1) $500 or (2) the lesser of (a) $250 times the number of non-highly compensated eligible employees or (b) $5,000. The credit applies for up to three years. The previous maximum credit amount  allowed was 50% of startup costs up to a maximum of $1,000 (i.e., a maximum credit of $500).
- A new tax credit of up to $500 is available for employers that establish an auto enroll feature on a SIMPLE IRA or 401(k) plan. This applies to any plan and not just new ones.  The credit applies for three years.
- With regards to the new mandate to permit certain part-timers to participate in retirement plans, employers may exclude such employees for nondiscrimination testing purposes.
- Employers now have easier access to join multiple employer plans (MEPs) regardless of industry, geographic location, or affiliation. "Open MEPs," as they have become known, offer economies of scale, allowing small employers access to the types of pricing models and other benefits typically reserved for large organizations. (Previously, groups of small businesses had to be affiliated somehow in order to join an MEP.) The legislation also provides that the failure of one employer in an MEP to meet plan requirements will not cause others to fail, and that plan assets in the failed plan will be transferred to another. (This rule is effective for plan years beginning on or after January 1, 2021.)
- Auto-enrollment safe harbor plans may automatically increase participant contributions until they reach 15% of salary. The previous ceiling was 10%.

**IMPORTANT DISCLOSURES**



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