The Jaffe Update
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Secure Act Brings Changes To Retirement Planning

Late last year, the President signed into law the Setting Every Community Up for Retirement Enhancement Act (commonly referred to as the "Secure Act"), the most significant retirement plan legislation since the Pension Protection Act of 2006. The Secure Act expands opportunities for individuals to increase retirement savings and simplifies retirement plan and IRA administration. However, the provision with the most significant impact may be the partial elimination of the "stretch IRA" which allowed a non-spouse beneficiary of an IRA or qualified retirement plan to receive minimum distributions over his or her lifetime. The following summarizes some of the important tax changes.

Repeal of Maximum Age for Traditional IRA Contributions

The Secure Act repeals the prohibition on contributions to a traditional IRA by an individual who has attained age 70½ after December 31, 2019.

Increase in Age for Required Beginning Date for Mandatory Distributions

The Secure Act increases the age at which you must begin taking required minimum distributions ("RMDs") from 70½ to age 72 from IRAs and qualified retirement plans. This change affects only those individuals who turn 70½ after 2019. Note if you continue working past age 72, you may be able to continue to delay commencing RMDs from your current employer's *qualified retirement plan* until after you actually retire.

Coordination with Qualified Charitable Distribution Rules

Taxpayers have been able to satisfy their obligation to take RMDs from IRAs by giving up to $100,000 directly to charities (known as qualified charitable distributions ("QCDs")) starting at age 70½. QCDs are not included in gross income, cannot be claimed as a deduction, and are not subject to the general percentage limitations that apply for making charitable contributions.

You may still make QCDs beginning at age 70½ even though the age for commencing RMDs has otherwise increased to age 72. But your QCDs will be reduced (not below zero) by the total amount of deductible contributions you make to a traditional IRA for the years in which you were age 70½ or older. Once you have used a deductible IRA contribution to reduce the QCDs income exclusion, it will not offset future QCDs.

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Partial Elimination of Stretch IRAs

For deaths of IRA owners or qualified retirement plan participants occurring before 2020, beneficiaries (both spousal and nonspousal) were generally allowed to stretch out the tax-deferral advantages of the IRA or qualified retirement plan by taking distributions over the beneficiary's actuarial life expectancy.

However, for deaths of IRA owners and qualified retirement plan participants beginning in 2020, distributions to most nonspouse beneficiaries are generally required to be distributed within ten (10) years following the IRA owner's or qualified retirement plan participant's death.

Exceptions to the 10-year rule are allowed for distributions to (1) the surviving spouse of the IRA owner or qualified retirement plan participant; (2) a child of the IRA owner or qualified plan participant who has not reached majority; (3) a chronically ill individual; and (4) any other individual who is not more than ten years younger than the IRA owner or qualified retirement plan participant. Those beneficiaries who qualify under this exception may generally still take their distributions over their life expectancy (as allowed under the rules in effect for deaths occurring before 2020), except that, in the case of a minor, once a minor reaches majority, the remaining balance of the plan or IRA must then be distributed within 10 years.

These rules will have an impact on the timing and amount of distributions to your beneficiaries from your IRA or qualified retirement account and the tax associated with these distributions. Your Jaffe attorney will be happy to help you understand how these changes specifically affect you and what additional planning may be available to reduce the impact or unintended consequences of these changes.

This summary is provided as an information service to our clients and friends. This summary is not intended, and should not be used, as legal advice or opinion.

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