The SECURE Act and Its Impact on Your Estate Plan

Contributed by Norris McLaughlin, P.A.

As the festivities of the New Year have waned and we begin approaching the Tax Season, we bring you news of a recent legislative development – The SECURE Act – that warrants your attention and may require changes to your estate plan.

Key Takeaways...

- Age required to begin taking distribution from Retirement Account increased from 70.5 years to 72 years; the age cap for starting an IRA is also removed
- The SECURE Act has changed the rules so that most beneficiaries will be required to receive the full amount of an inherited Retirement Account within 10 years of the death of the person who funded the Retirement Account
- The SECURE Act took effect on January 1, so it is imperative to review your estate plans with your planning professionals

About The SECURE Act

During the final weeks of 2019, Congress enacted federal tax legislation known as the “SECURE Act.” The law makes important changes to the federal tax code that will impact distributions from retirement accounts such as 401(k)s, 403(b)s, IRAs, and tax-qualified annuities (referred to in this legal advisory collectively as “Retirement Accounts”). Those changes may affect you during your lifetime and may also affect the way Retirement Accounts are distributed to your beneficiaries after your death. Consequently, the law may also limit your ability to protect retirement accounts from your beneficiaries’ creditors in a tax-efficient manner.

This legal advisory summarizes the key aspects of the SECURE Act, which is effective as of January 1, 2020, that may affect your estate plan. We hope you find it helpful in understanding certain major changes enacted by this legislation and how they might affect you. However, bear in mind that the law will affect everyone differently. Therefore, we strongly urge you to contact our office to arrange a time for us to discuss this new law in detail, so that we may act to make any necessary revisions to your estate plan as soon as possible.

See the full article on the Norris McLaughlin website: https://cutt.ly/TheSecureAct
LVCF is pleased to share its advice about the number of ways—and many benefits—for supporting your favorite causes using your IRA account. It may be advantageous to name a charity (including your charitable fund at LVCF) as a beneficiary in a planned giving approach. Or, it may be rewarding to give during one’s lifetime through the powerful Qualified Charitable Distribution (QCD) option available to some individuals. We will review both opportunities and the new considerations for them under the 2019 Setting Every Community Up For Retirement Enhancement (SECURE) Act.

Charity as IRA Beneficiary

Naming a charity as an IRA beneficiary is a popular planned giving strategy, particularly among those individuals who have and wish to give other assets to their heirs, such as cash and stock. This way to preserve one’s legacy is even more important to consider under the SECURE Act. Under the new law, non-spouse beneficiaries will have to withdraw all the funds in the inherited IRA within 10 years from the death of the original account owner, except under certain circumstances, which can create a significant tax burden for some heirs. (Note, this new rule applies only to IRA owners who die after 12/31/2019.)

One option to consider to avoid this future burden is to designate a charity as a beneficiary, including your LVCF charitable fund. A donor-advised fund can even include your heirs as future advisors, so your charitable legacy is preserved for generations to come. Another option is to maximize QCDs (up to $100,000 per-year after age 70 ½) during your lifetime to reduce the IRA balance.

Qualified Charitable Distribution

The SECURE Act of 2019 introduced a QCD “anti-abuse rule” to address any loopholes available now that deductible contributions to traditional IRAs are allowed after the age of 70 ½, in certain circumstances. Under the SECURE Act, QCDs are reduced by the amount of deductible traditional IRA contributions made after age 70 ½. Instead, these “disqualified” QCDs are reported in income with a corresponding charitable deduction (if the tax payer itemizes).

It’s important to note that certain rules apply, which are discussed in LVCF’s June 2019 Cause Connection.

QCD Example

I am 73 years old with earned income. I make a $5,000 contribution to my IRA, which I choose to deduct on my return. At the age of 74, I do the same thing, for total post-70 ½ deductible IRA contributions of $10,000. At age 75, I retire and choose to make a $50,000 QCD to my area of interest fund at LVCF. I must report $10,000 in income, representing the “disqualified QCD” amount, with a $10,000 corresponding itemized deduction for charitable giving. The remaining $40,000 is treated as a QCD, which is not reported in income and is not deductible. Note that 100% of future QCDs will be excluded from income, each deductible contribution counts only once.

Options to consider:

- Develop a strategy for each IRA owner: One income-earning spouse continues to make tax-deductible contributions to the individual’s IRA while the other spouse makes qualified charitable distributions to charities from that individual’s IRA.
- Continue to make QCDs to eat through the post-70 ½ deductible contributions: An individual must still follow QCD rules to “eat through” the accumulated deductible contributions, even if it’s the same tax result as receiving the annual RMD and then writing a check to charity. So, continue to consider QCDs in your planning even if you have past deductible contributions.
- Make charitable gifts with more tax-efficient assets, into more tax-efficient vehicles: “Bunching” donations into a donor-advised fund, with a gift of appreciated securities, is a popular charitable giving approach to maximize the benefit of a charitable deduction.

There are other options to consider for your individual situation, so we encourage you to reach out to your advisors and to consider LVCF in your plans. LVCF can help you and your advisors establish a charitable fund to meet your tax goals and, most importantly, your giving goals using a variety of gift types.

QCD benefits include...

- Up to $100,000 of QCDs are excluded from gross income in a tax year, which is unlike regular withdrawals from an IRA. The $100,000 limit applies to each individual IRA account owner, so both spouses of a married couple filing jointly can each make up to $100,000 in QCDs each year.
- QCDs count toward your required minimum distributions (RMDs), for those taxpayers who are over 72 years (updated from 70 ½ in the SECURE Act).
- The lower taxable income resulting from a QCD strategy has its own benefits, particularly for those tax deductions, tax credits, and benefit payments that are tied to adjusted gross income.
- QCDs don’t require that you itemize deductions to receive a tax benefit for your charitable giving, which means you may decide to take advantage of the higher standard deduction enacted under the 2017 Tax Cuts & Jobs Act.