



“SECURE ACT” SET TO BECOME LAW AND ELIMINATE “STRETCH” INHERITED IRAS FOR NON-SPOUSE BENEFICIARIES

December 19, 2019

The Setting Every Community Up for Retirement Enhancement ("SECURE") Act passed the U.S. House of Representatives and Senate as part of the Spending Bill and is expected to be signed by the President before December 24th. Assuming it is signed, the Act will drastically alter rules with respect to 401(k)s and Individual Retirement Accounts ("IRAs"), particularly with regard to required distributions from these accounts when they are inherited from the original participant.

While the Act offers some improvements to the current retirement savings options such as: allowing contributions to an IRA at any age as long as a participant is still working; raising the age at which a participant is required to start taking required minimum distributions from age 70 ½ to age 72; incentivizing small businesses to offer 401(k) plans to part time workers, making it easier for two or more small employers to come together to offer a plan to their employees; and offering a safe harbor to allow employers to provide lifetime income options through annuities within the retirement plans.

These improvements come at a cost. In order to pay for them, the Act imposes a maximum 10 year payout rule for inherited retirement accounts received from a decedent who died in 2020 or later unless the account is being inherited by the surviving spouse of the participant. This is a significant change from current law, which allows beneficiaries of inherited retirement accounts to stretch required minimum distributions over their expected lifetime. With the enactment of the SECURE Act, the lifetime stretch option will only be available if the beneficiary inheriting the retirement account is the participant's spouse.

All other individual beneficiaries inheriting a retirement account from a decedent who dies after December 31, 2019 will be required to draw down the entire account within 10 years of the participant's death, thereby accelerating the income taxes due on the distributions and minimizing the amount of appreciation that occurs on a tax deferred basis. Under the Act, there is no required distribution schedule for the 10 year period, but the entire account must be withdrawn by the 10 year mark. While this may allow for income tax deferral until the tenth year, providing some tax planning options, it still will accelerate the payment of income taxes under most circumstances, and may push beneficiaries into higher income tax brackets as larger distributions are taken over a shorter time frame. The Act has exceptions for minor children of the participant (whose ten year drawn down window does not begin until they reach the age of majority), disabled or chronically ill beneficiaries, and beneficiaries not more than 10 years younger than the deceased owner.

Given the changes to the inherited retirement account rules, it is important that people who have significant retirement accounts review the beneficiary designations and how these coordinate with their overall estate plan to determine if changes should be made given these new rules and limitations. If you have questions in this regard, please consult your Cummings & Lockwood LLC attorney.