SECURE Act Newsletter

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SECURE Act Newsletter
The Greening Law Firm P.C.

Estate Planning from the safety of your home
Call us today

Dear Friends,

Summer has arrived and so has our latest newsletter. We hope that you and your family and friends are all safe and healthy, and are able to enjoy our warm weather.

Times feel different now. There is uncertainty; news changes our circumstances by the day, sometimes multiple times per day. Our firm has continued to help our clients with their planning and trust and estate administration matters, now from a distance. Our staff members have mostly returned to our office, keeping a safe distance and utilizing careful sanitation practices, including wearing facemasks. We are not seeing clients at our office, except when we can do so briefly and from a distance. The use of Zoom and telephone meetings have become regular. We certainly miss meeting our clients in person, but for now, we are pleased to be able to help with more space between us, using technology to bridge the distance.

One thing that hasn't changed is the need for planning. Our firm motto, Planning Adds Predictability, seems as relevant as ever. Do you have an up-to-date plan? Do you know what your plan says? Do you need to update your plan? If you haven't seen us in a while, there have been some significant changes in the estate tax realm, retirement account planning, and other areas. We would like to discuss those changes with you and share what they can mean for your plan. We would be honored to visit with you by telephone or Zoom to discuss your plan and how you might want to adjust for the times (or make a plan if you don't have one!). Of course, we're also ready to help your friends, relatives, and neighbors, and are honored when you share our newsletters with them and refer them to us to discuss estate planning and related matters.

This summer's newsletter features an article about the SECURE Act, a federal law effective January 1, 2020, that significantly affects most retirement accounts. We hope you find the article informative. We are ready to discuss your retirement account planning, and if you have a retirement plan trust or have named another trust as a beneficiary of your retirement accounts, we encourage you to schedule a time to visit with us at your earliest opportunity.

We stand ready to serve you,
Ron & Jeff

The SECURE Act: How Does It Affect Your Retirement Accounts?

On January 1, 2020, a new federal statute, the SECURE Act (Setting Every Community Up for Retirement Enhancement Act), became effective. The Act is the most impactful legislation affecting retirement accounts in decades. It will have a positive impact for many older Americans but could have negative tax, asset protection, and distribution consequences for many beneficiaries of their retirement accounts.

The Good and the Bad

The SECURE Act makes several positive changes: It delays the required beginning date (RBD) for required minimum distributions (RMDs) from your individual retirement accounts from 70½ to 72 years of age, and it eliminates the age restriction for contributions to qualified retirement accounts.

However, perhaps the most significant change will affect the beneficiaries of your retirement accounts: The SECURE Act requires most designated beneficiaries—with some exceptions for spouses, beneficiaries who are not more than ten years younger than the account owner, the account owner's children who have not reached the "age of majority," disabled individuals, and chronically ill individuals—to withdraw the entire balance of an inherited retirement account within ten years of the account owner's death.[1]

Under the old law, "designated beneficiaries" of inherited retirement accounts (i.e. beneficiaries who are individuals) could take distributions over their individual life expectancy. Under the SECURE Act, the shorter ten-year time frame for taking distributions will result in the acceleration of income tax due, possibly causing your beneficiaries to be bumped into a higher income tax bracket and receive less than you anticipated.

What Should You Do?

In order to protect your hard-earned retirement account and the ones you love, it is critical to act now. In addition to the tax considerations stemming from the SECURE Act, you might be concerned with protecting a beneficiary's inheritance from their creditors, future lawsuits, and a divorcing spouse. We can help you think through strategies, including the following options, to help you achieve your estate planning goals:

Review/Amend Your Revocable Living Trust (RLT) or Standalone Retirement Trust (SRT)

Depending on the value of your retirement account, you may have addressed the distribution of your accounts in an RLT or created an SRT to handle your retirement accounts at your death which included "conduit" provisions. Under the old law, the trustee would only distribute required minimum distributions (RMDs) to the trust beneficiaries, allowing the continued "stretch" based upon their age and life expectancy. The conduit trust provisions protected the account balance, and only RMDs--much smaller amounts--were vulnerable to creditors and divorcing spouses. With the SECURE Act's passage, a conduit trust structure will no longer work for long-term asset protection and growth because the trustee will be required to distribute the entire account balance to a beneficiary within ten years of your death (unless they are an eligible designated beneficiary, discussed above). You should discuss the benefits of an "accumulation trust" with us. An accumulation trust is an alternative trust structure through which the trustee can take any required distributions and continue to hold them in a protected trust for your beneficiaries.

Consider Additional Trusts

If you have not done so already, it may be beneficial for you to create a trust to handle your retirement accounts at your death. Simple beneficiary designation forms--allowing you to name an individual or charity to receive funds when you pass away--might not fully address your estate planning goals and the unique circumstances of your beneficiaries. A trust is a great tool to address the potential downfalls to the new mandatory ten-year withdrawal rule under the SECURE Act and provide continued protection of a beneficiary's inheritance.

Review Intended Beneficiaries

With the changes to the laws surrounding retirement accounts, now is a great time to review and confirm your retirement account information. Whichever estate planning strategy is appropriate for you, it is important that your beneficiary designation forms are filled out correctly, naming a trust or an individual as your primary beneficiary, and naming contingent beneficiaries. We can advise you about the impact of the SECURE Act on certain beneficiaries.

Other Strategies

If you are charitably inclined, now may be the perfect time to review your estate planning and possibly use your retirement account to fulfill these charitable desires. If you are concerned about the amount of money available to your beneficiaries and the impact that the accelerated income tax may have on the ultimate amount, you can explore different strategies with us, in collaboration with your other advisors, to infuse your estate with additional cash upon your death.

We Can Help

Although this new law may be changing the way we think about retirement accounts, we are here and prepared to help you properly plan for your family and protect your hard-earned retirement accounts. Give us a call today to schedule an appointment to discuss how your estate plan and retirement accounts might be impacted by the SECURE Act.

[1] If a beneficiary is not considered a "designated beneficiary," distributions must usually be taken by the fifth year following the account owner's death.

Call us today or visit our updated website

Call (512) 476-0888 or email us at greeninglawfirm@greeninglawfirm.com with your concerns or questions.

Visit our website

Thank you for the privilege of serving you. We look forward to hearing from you soon.

Regards,
Ron Greening, Jeff Harris and the Staff of the Greening Law Firm, P.C.

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