December 30, 2019

The SECURE Act Ends the Stretch IRA

By Erika Haupt

On December 19, President Trump signed the Setting Every Community Up for Retirement Enhancement ("SECURE") Act as part of the government's spending bill. Under current law, depending on whether a deceased account owner died before or after his or required beginning date ("RBD"), a non-spouse beneficiary of an IRA may stretch out required minimum distributions over the beneficiary's lifetime. The RBD is currently April 1 of the year after an account owner reaches 70 ½ but will change to 72 as a result of the SECURE Act. Known as a "stretch IRA," a non-spouse beneficiary may defer payments – and the corresponding income taxes related to those payments – over his or her lifetime.

For beneficiaries inheriting IRAs after December 31, 2019, all account assets shall be distributed within 10 years, regardless of whether the deceased account owner died before or after the RBD. No withdrawals must be made during the 10-year period, but the entire plan balance must be withdrawn no later than 10 years following the account owner's death.

The stretch IRA was a popular planning tool to allow an heir to take account distributions over a long period of time, deferring income tax and permitting account assets to grow income tax-free. For a very young beneficiary, the ability to stretch could result in significant income tax benefits.

Certain beneficiaries, called "eligible beneficiaries," are exempt from the 10-year payout rule. Surviving spouses, chronically ill heirs, and disabled heirs are exempt. Minors are also exempt but only until they turn age 18, at which time the 10-year clock begins.

What does the death of the stretch IRA mean to you? You should revisit your qualified retirement plan beneficiary designations, and take appropriate proactive steps to ensure your designations fulfill your overall estate plan.

- **Conduit Trusts**. If you named a trust as the beneficiary of an IRA, expecting the account benefits to paid over the life expectancy of the oldest trust beneficiary, you may want to amend your trust. Certain trusts, known as conduit trusts, provide that all IRA distributions shall be paid directly to trust beneficiaries. Now that the entire IRA must be paid within 10 years, you may wish to amend your trust to make it an accumulation trust; that is, a trust to which IRA distributions shall be made but the distributions are not automatically distributed to the beneficiaries. Instead, distributions may be held in the trust for later distribution to beneficiaries as the trustee determines pursuant to the terms of the trust. While an accumulation trust subjects the IRA distributions to tax at the highest income tax rate, it allows the trust to extend the payment period to the beneficiaries beyond 10 years following the deceased account owner's death.

- **Life Insurance**. Consider using a portion of your required minimum distribution or other available assets to fund a life insurance policy. If your children or an irrevocable trust owns the policy, it will not be included in your estate for estate tax purposes. The beneficiaries of the policy proceeds receive the proceeds income tax-free. On your death, or on the death of the surviving spouse for a married couple, one or more charities could be substituted for your children as IRA beneficiaries. A charitable beneficiary does not pay income tax, and your estate receives a charitable deduction for estate tax purposes. Your children are no longer beneficiaries of the IRA, but they receive life insurance proceeds income tax-free.

- **Charitable Remainder Trusts**. Fund a charitable remainder trust ("CRT") on your death with IRA assets. The beneficiaries of the CRT receive an income stream from the trust over a period of time or their life expectancies. Similar to a stretch IRA, the distributions are subject to income tax when received by the beneficiaries over a long period of time. At the end of the CRT term, the remaining assets are distributed to charity. Using a CRT not only allows you to create your own stretch IRA, but your estate will receive a charitable deduction upon the funding of the CRT.

Please consult any one of our tax attorneys for assistance with the effect of the SECURE Act on your financial and estate plans.

Christopher P. Reuscher
Practice Group Manager
Corporate, Tax and Transactional
330.762.7994 | creuscher@ralaw.com

Steven Cox
330.849.6714 | scox@ralaw.com

Avery Delott
312.582.1636 | adelott@ralaw.com

Erika L. Haupt
614.723.2037 | ehaupt@ralaw.com

Edward C. Hertenstein
614.723.2066 | ehertenstein@ralaw.com

David J. Hochman
312.582.1686 | dhochman@ralaw.com

Lisa H. Lipman
239.213.3863 | llipman@ralaw.com

Brian V. McAvoy
239.649.2722 | bmcavoy@ralaw.com

Ben M. Roth
312.582.1676 | broth@ralaw.com

Albert N. Salvatore
216.615.4845 | asalvatore@ralaw.com

Daniel B. Waters
614.723.2012 | dwaters@ralaw.com

John B. Waters
312.582.1685 | jwaters@ralaw.com

David W. Woodburn
216.820.4234 | dwoodburn@ralaw.com