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2020 Estate Planning Advisory Memorandum

April 2020

On December 20, 2019, the Setting Every Community Up for Retirement Enhancement Act ("SECURE Act") was signed into law. This new legislation significantly changed the estate planning landscape for retirement benefits, effective January 1, 2020. Highlights of changes from the SECURE Act are outlined below. In addition, the just-enacted Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") has introduced changes to the rules relating to retirement plans.

Some of the key highlights of the SECURE Act are:

Elimination of the "Stretch" IRA. Prior to the SECURE Act, beneficiaries were generally allowed to stretch out the tax-deferral advantages of the plan by taking distributions over the beneficiary's life expectancy. Under the SECURE Act, all funds in an inherited IRA must be distributed to the beneficiary within ten years of the original IRA owner's death. Exceptions to the 10-year rule are allowed for distributions to surviving spouses, minor children of the participant, disabled and chronically ill beneficiaries, and beneficiaries less than 10 years younger than the participant.

As a result of the SECURE Act, your estate plan may not operate the way it was intended. For those who leave their retirement plans outright to individuals, this means the benefits will be required to be distributed to the beneficiary in 10 years rather than the beneficiary's life expectancy. This may cause the beneficiary to pay taxes sooner than expected. The new law also has a significant impact on trusts named as beneficiaries. Trusts commonly used as beneficiaries are conduit trusts and accumulation trusts. For trusts structured as conduit trusts, all of the retirement plan benefits will generally be required to be distributed to the trust, and then to the beneficiary, within 10 years. For trusts structured as accumulation trusts, all the retirement plan benefits will generally be required to be distributed to the trust within 10 years; however, this type of trust allows the trustee to accumulate the benefits or distribute them to the beneficiary as the trustee deems best.

Required Minimum Distributions Begin At Age 72. Upon reaching a certain age, individuals are required to withdraw a required minimum distribution ("RMD") from their retirement accounts. The SECURE Act has changed that age from 70 ½ to 72 in order to allow individuals' accounts more time to grow.

No Maximum Age Limit for IRA Contributions. The SECURE Act eliminated the maximum age limit for contributing to a traditional IRA. Previously, once an individual reached 70 ½, he or she was prohibited from contributing to a traditional IRA. Now, as long as an individual is working, he or she may continue to contribute to the IRA.

In light of the SECURE Act's significant changes to longstanding retirement distribution rules, it may be time to reconsider beneficiary designations and related estate planning, especially if trusts have been named as the beneficiary of your retirement plan, 401k, or IRA.

Some of the key highlights of the CARES Act are:

Required Minimum Distributions Waived for 2020. The CARES Act waives the RMD rules for 2020 with respect to RMDs made from IRAs and qualified employer retirement plans (other than cash balance and other defined benefit plans).

Coronavirus-Related Distributions. The 10% excise tax imposed on early distributions from a retirement plan is not imposed on coronavirus-related distributions of up to $100,000 in 2020. An individual must satisfy certain requirements in order to qualify for coronavirus-related distributions. A taxpayer may elect to pay income taxes on a coronavirus-related distribution over a three-year period, or taxpayers may avoid income recognition by repaying the distribution to the retirement plan within three years of receipt.

Retirement Plan Loans. A retirement plan participant who qualifies for a coronavirus-related distribution may borrow up to the lesser of $100,000 and 100% of his or her vested plan benefits (this is increased from the lesser of $50,000 and 50% of his or her vested plan benefits). For participant loans that were in effect as of March 27, 2020, where the participant qualifies for a coronavirus-related distribution, the loan repayment due date is delayed for one year.

Contribution Deadline Extended. The deadline for making contributions to an IRA is extended to July 15, 2020.

The attorneys in our Trusts and Estates Group will be happy to answer any questions you may have or provide additional information concerning the matters discussed in this advisory.

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