

# This Is the Year to Talk with Your Planners about the SECURE Act

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**The SECURE Act became law in January 2020. It stands for Setting Every Community Up for Retirement Enhancement, which translates into the fact that the rules for our retirement accounts have changed.**

When you meet with your estate planning attorney or financial planner, ask how these changes will affect you and your family.

Among the multiple changes that will have a widespread effect are:

- Allowing individuals of any age to continue making qualified contributions to traditional IRAs;
- Increasing the age when Required Minimum Distributions must begin;
- Payouts to designated beneficiaries are no longer based on life expectancy, but subject to an “all out by the 10th year after death” rule, except for certain categories; and
- Qualified charitable distributions from an IRA are allowed that can satisfy the Required Minimum Distribution.

First, the change that allows us to continue contributing to traditional IRAs may be welcome news in light of the economy. Even though the SECURE Act became law before we ever heard of COVID-19, the change may prove to benefit those nearing retirement. COVID-19 has led some people to leave jobs prematurely, close businesses, and experience a reduction in income. So,

the opportunity to contribute additional retirement savings and getting tax-deferred could be a much-needed benefit during a difficult time.

Prior to the SECURE Act, individuals were not allowed to make contributions to their IRA after the age of 70 1/2. Under the SECURE Act, individuals of any age can contribute to an IRA. Whether or not these contributions will be deductible depends on other factors such as filing status, earnings and active status in a qualified plan. For example, it is possible that a couple

could continue to contribute \$14,000 per year if they meet certain requirements.

Individuals can make contributions even if they are already receiving the Required Minimum Distribution. To make a contribution, the individual must have eligible compensation. Which basically is wages, tips, salaries, fees and bonuses. For more specific questions on what qualifies as eligible compensation, refer to IRS Publication 590-A.

Another change under the SECURE Act is in regard to when we must start taking the Required Minimum Distributions. These are mandatory distributions from a traditional IRA, SEP or simple IRA. Prior to the act, distributions had to begin upon an individual turning 70 1/2. Under the act, if you did not reach 70 1/2 by the end of 2019, then the age when you are required to start taking distributions, and recognizing the income, is 72. The distributions begin April 1 of the year after the year you turn 72.

Another change that is important to estate planning, is that the act requires that retirement accounts

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must be distributed to designated beneficiaries within 10 years; therefore, recognizing the income for taxes within 10 years. This provision is designed to generate tax revenue because it accelerates the recognition of taxable income. In estate planning, a common strategy is to leave a retirement account to a non-spouse beneficiary who can then enjoy the “stretch,” which refers to stretching out distributions over the course of a life expectancy. Well, that has come to an end for many beneficiaries because they must take the full payout within 10 years, but they are not required to receive Required Minimum Distributions during these years.

### The 10-year rule does not apply to a “qualified eligible beneficiary.”

People who fall into this category may continue to receive distributions based on life expectancy. Qualified eligible beneficiaries include:

- a surviving spouse;
- a minor child; however, once the child reaches the age of majority, the 10-year rule applies;
- a disabled or chronically ill individual;
- and comparable-aged individuals, which means an individual who is no more than 10 years younger than the individual. This rule will benefit unmarried partners or siblings, for example.

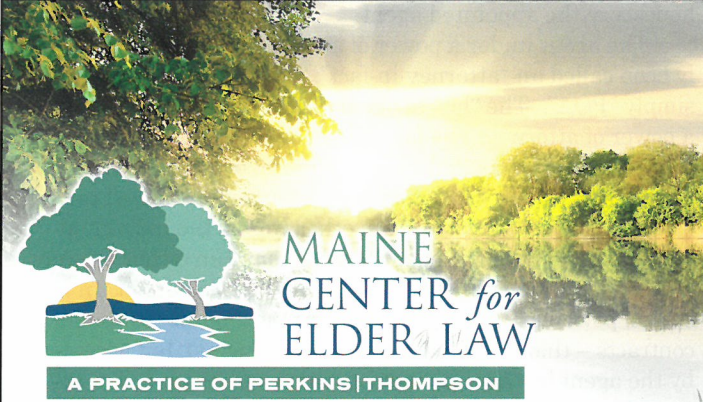
Finally, the SECURE Act also preserved the ability to make Qualified Charitable Distributions (QCDs). So, a strategy to bring down the taxable value of an IRA is to make QCDs while alive. The QCD is not a tax deduction, nor is it included as income for income tax purposes. And, the QCD can satisfy all or part of your Required Minimum Distribution.

First, a Qualified Charitable Distribution can only be made from an IRA. These rules do not apply to a 401(k) or 403(b).

So, if you’re interested in using IRA funds to make charitable gifts, make certain you satisfy this checklist:

- The donor must be 70 1/2.
- The source must be an IRA, not a 401(k) or 403(b).
- The payment must go directly from the IRA to the charity. Do not put the funds in your bank account in the interim.
- The charity must be a qualifying public charity. This does not include private foundations, donor-advised funds, or “friends of ...” organizations.
- The donor cannot receive a personal benefit, such as a dinner, ballgame, souvenir hat, etc.
- The charity must send the donor a letter stating that the donor did not receive a benefit.

The SECURE Act has other changes. This article seeks to highlight some that would be relevant to you. It would be worth checking in with your professional planners to see if they have recommendations.



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