SECURE ACT AND TAX EXTENDERS LEGISLATION SUMMARY

On December 19th, Congress passed the "Setting Every Community Up for Retirement Enhancement" (SECURE) Act along with a series of tax extenders. The bill, which passed the House of Representatives earlier in the year, but had languished in the Senate, was tagged along with the tax extenders as a late addition to a year-end appropriations bill to keep government operations funded. The SECURE Act will be a permanent fixture taking effect on 1/1/2020, while the tax extenders will potentially affect tax returns from 2018 through the 2020 tax years but will sunset after 12/31/2020. We've summarized the highlights from the legislation below. As always, we will work with clients to determine any necessary updates to their retirement planning strategy as a result of these legislation changes.

I. **Stretch IRAs Significantly Reduced –** A new 10-year rule requires IRAs inherited by non-spouse beneficiaries to be distributed by the end of the 10th calendar year following the year of death of the employee/IRA owner. This new 10-year rule applies to inherited IRAs from decedents passing away after 12/31/19. There are exceptions for the following beneficiaries:
   i. Spousal beneficiaries
   ii. Minor children up to age of majority or age 26 if child is still in school; then the 10-year payout begins
   iii. Beneficiaries less than 10 years younger than decedent
   iv. Disabled or chronically ill beneficiaries

   Notably, there is no requirement when funds must be distributed within the 10-year time period, only that the entire balance must be taken by the end of the 10th year after death of the IRA owner. This rule could have significant impacts to how beneficiary designations are structured, how the designations coordinate with estate planning documents (including use of conduit trusts), and tax efficient distribution strategies.

II. **Required Minimum Distribution (RMD) Age is Now 72** – This applies to individuals turning age 70.5 after 12/31/2019. This law does not impact individuals who turned 70.5 in 2019 or prior years, as they will still have an annual RMD.

III. **Qualified Charitable Distributions (QCD)** – While the RMD age changes to 72 as noted above, the age to begin using IRAs and inherited IRAs to fund QCDs remains 70.5.

IV. **Traditional IRA contributions will be allowed after age-70.5.** All other IRA contribution requirements (ex. earned income requirement) still apply. Note, deductible traditional IRA contributions made after 70.5 will reduce any future QCDs, thus converting them to itemized deductions**.**

V. **10% early withdrawal penalty exceptions** have been expanded to include qualified childbirth and adoption distributions up to $5,000 per individual.

VI. **Changes for Employer-Sponsored Retirement Plans Under ERISA:**
   i. **Fiduciary Safe Harbor for Selection of Lifetime Income (Annuity) Provider** – The SECURE Act creates section 404(e) of ERISA. This section states that plan fiduciaries now only need to meet limited criteria to absolve themselves of potential future liability for including annuity products in the available investment options of any plans governed by ERISA, such as 401(k) plans.
   ii. There will be a **small business tax credit for small businesses establishing a retirement plan**.
   iii. The SECURE Act establishes a **small business tax credit for plans that use an auto-enrollment feature** ($500 for first 3 years after beginning auto-enrollment, starting in 2020).
   iv. The SECURE Act **allows long-term part-time workers to participate in employer plans** by modifying the minimum hours requirement from 1,000 in any plan year to **<u>EITHER</u>** 1,000 hours in any plan year or 500 hours worked in each of the past three consecutive years. This rule takes effect in 2021, which results in part-time employees not eligible under the first rule to be potentially eligible for participation in an employer plan in 2024 due to the new 3-year lookback.
   v. Barriers to the establishment of **Multi-Employer Plans (MEPs)** are reduced under the SECURE Act effective for plan years beginning 1/1/2021.

VII. Miscellaneous provisions of the SECURE Act

i. **Penalties for failure to file income tax** returns and Form 5500's for employee benefit plans increase significantly.

ii. Certain employer-only funded plans will be able to be established by the tax return due date plus extensions for the business (ex. stock bonus plans, pension plans, profit sharing plans, etc.).

iii. Expanded definition of **qualified education expenses for 529 plan** purposes to include:

   a. **Qualified Education Loan Repayments** – Subject to a per person lifetime limit of $10,000 and an additional $10,000 can be used per sibling of the 529 plan beneficiary.

   b. **Expenses for Apprenticeship DOL-Registered Programs** – Includes books, fees, supplies and required equipment.

iv. **Kiddie Tax Reverts to Pre-Tax Cuts and Jobs Act (TCJA) Law** – Unearned income of children will be subject to parents' tax rate (TCJA law subjected income to trust tax rates). Parents can elect to use either treatment for 2018 & 2019 tax years.

VIII. Tax Extenders – The 2019 tax extenders were included in the bill under the Taxpayer Certainty and Disaster Relief Act of 2019 and apply only through the 2020 tax year. Below are some of the significant tax extenders included.

i. **Extenders retroactive to 2018 and applicable through 2020**:

   a. Mortgage Insurance Premium Deduction

   b. Deduction for qualified tuition and related expenses

   c. Exclusion from gross income for the discharge of certain qualified principal residence indebtedness

ii. **Medical Expense AGI floor remains at 7.5% for 2019 and 2020** (was set to be 10% in 2019 and beyond under TCJA).

iii. The Act provides for **Qualified Disaster Distributions** from retirement accounts for federally-declared disaster areas from disasters occurring during the period 1/1/2018 through 60 days after enactment of the law. Qualified Disaster Distributions have several benefits, including exemption from 10% early withdrawal penalty and treatment for tax purposes as evenly distributed over a 3-year period regardless of the timing of distribution.

While the above items are not meant to be a comprehensive list of the changes under the year-end legislation, we wanted to highlight the key provisions that have the most potential to impact our clients. We will work proactively with each client to address any potential areas for change in their retirement and estate planning in light of the enactment of the SECURE Act and related legislation.

The Goodman Financial Advisory Team