PRESENTED AT

22nd Annual Estate Planning, Guardianship, and Elder Law Conference

July 30-31, 2020
Live Webcast

Feeling InSECURE About Beneficiary Designations?

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I. SECURE Act Basics

On December 20, 2019, the federal government enacted the Setting Every Community Up for Retirement Enhancement Act of 2019. The SECURE Act was Division O of the Further Consolidated Appropriations Act of 2020.

In case you're wondering, yes, the bill also contained Divisions A through N, as well as a Division P and a Division Q. This was a huge spending bill, a small part of which was paid for by increasing taxes on tax-deferred retirement money, by taking away some of that deferral. I've pulled a few selected provisions of the SECURE Act and printed them in Appendix A of this paper. Appendix B contains the new version of § 401(a)(9) of the Internal Revenue Code, with underlines and strikethroughs showing the changes made by the SECURE Act.

For years, I have believed (and probably often said), that the tax benefits of IRA deferral after death were barely worth the effort required to get that deferral, and that if Congress really needs to increase taxes, reducing IRA deferral to a simple 10-year option for everyone would be my first offer.

Imagine my surprise when Congress adopted a 10-year rule, but managed to make it the opposite of simple.

Instead of eliminating the concept of the "Designated Beneficiary," Congress has grafted on a new animal called an "Eligible Designated Beneficiary." Instead of giving the 10-year rule to everyone, they are still making us jump through all the old hoops just to get the 10-year rule, and they've kept the old 5-year rule for those who fail. Instead of reducing the amount of professional planning that clients bearing large IRAs need, Congress has created yet more work for lawyers and accountants.

II. Who Gets Which Payout

Under the new regime, after a retirement plan participant or IRA owner dies, the beneficiaries can get one of four possible withdrawal schedules: The participant's remaining life expectancy, the beneficiary's life expectancy, the 10-year rule, or the 5-year rule. (As with other distribution rules, the SECURE Act applies to IRAs as well as qualified retirement plans, and I will use "IRA" to refer to both. "Participant" means the IRA owner as well as a retirement plan participant.)

A. Participant's Remaining Life Expectancy — Unchanged

This is the least interesting result, because it usually isn't very valuable, and when it is valuable, it's not hard to obtain. Basically, if the participant dies after the Required Beginning Date (which is now age 72), AND the IRA had no Designated Beneficiary, then the IRA will be distributed

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First appeared as part of the conference materials for the
22nd Annual Estate Planning, Guardianship and Elder Law Conference session
"Feeling Insecure About Beneficiary Designations?"