

Estate Planning For Retirement Plans In View of the SECURE Act

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Background

- Brief History of Federal Legislation Relating to Retirement Plans
- Defined Terms
- (Recent) History of the SECURE Act
- Pre-SECURE Act MRD Rules
- Effective Date Rules
 - Applicable in the case of Participants who die after December 31, 2019
 - Applicable to successor beneficiaries of DBs receiving distributions from a retirement plan inherited from the Participant in the case of (i) a Participant who died *before* January 1, 2020 and (ii) a DB who dies *after* December 31, 2019

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Major Changes Made by the SECURE Act

- Age component of RBD changed to 72
- Two types of DBs: “Eligible Designated Beneficiaries” (EDBs) and “Other” Designated Beneficiaries (ODBs)
- 10 Year Rule applies to ODBs
- Life Expectancy Distribution Method Available to EDBs (LE Method varies by type of EDB)
- A **NEW** type of trust - Applicable Multi-Beneficiary Trust (AMBT) - may be used for disabled and chronically ill beneficiaries

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Interplay Between Pre-SECURE Act Rules and New Rules Provided by the SECURE Act

- Very few pre-SECURE Act rules repealed
- Which pre-SECURE Act rules are still effective?
- Many unclear issues due to lack of coordination between pre-SECURE Act rules and “New Rules”
- ACTEC SECURE Act Guidance Task Force has identified over 40 issues that need clarification and has submitted those issues to Treasury
- Expect regulations to address numerous issues

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Trusts for Beneficiaries

- Conduit Trust (example in pre-Secure regs)
- Accumulation Trust (example in pre-Secure regs)
- Grantor Trust (PLRs only)
- Applicable Multi-Beneficiary Trust (NEW)
- Non-qualifying Trust (Non DB)
- Charitable Remainder Trust

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Eligible Designated Beneficiaries (NEW)

1. Participant's Surviving Spouse
2. Participant's Minor Child
3. Disabled Beneficiary
4. Chronically Ill Beneficiary
5. Beneficiary (not in any other category) who is *not more than 10 years younger* than the Participant

NOTE: Determination of whether a beneficiary is an EDB is made *as of the Participant's date of death*

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