

Estate Planning For Retirement Plans In View of the SECURE Act

Karen S. Gerstner
Karen S. Gerstner & Associates, P.C.
(713) 520-5205
karen@gerstnerlaw.com

THE UNIVERSITY OF TEXAS SCHOOL OF LAW
23RD ANNUAL ESTATE PLANNING, GUARDIANSHIP
AND ELDER LAW CONFERENCE
August 5-6, 2020

1

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

2

2

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

3

3

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- Very few pre-SECURE Act rules repealed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

4

4

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

5

5

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*

6

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Estate Planning for Retirement Plans in View of the SECURE Act

Also available as part of the eCourse

[2021 Estate Planning, Guardianship, and Elder Law eConference](#)

First appeared as part of the conference materials for the
23rd Annual Estate Planning, Guardianship and Elder Law Conference session
"Estate Planning for Retirement Plans in View of the SECURE Act"