LAKIN SPEARS LLP
ATTORNEYS AT LAW

Changes to Retirement Account Rules

Beginning January 1, 2020, the SECURE Act (Setting Every Community Up for Retirement Enhancement) significantly changed the rules regarding retirement accounts.

Prior to the Act, you could leave your IRA to an individual beneficiary who would then be able to take distributions from the IRA in annual installments over his life expectancy. This allowed the income taxes attributable to the IRA distributions to be paid in the same annual installments over the beneficiary's life expectancy term rather than paid in one lump sum. This was referred to "stretching" the IRA.

Under the Act, your IRA beneficiary is no longer allowed to stretch the IRA over his life expectancy. Instead, your IRA beneficiary must distribute the full IRA to himself within 10 years of your death. Along with these accelerated distributions are accelerated payments of the associated income taxes.

There are several exceptions to the new 10-year rule if your beneficiary (1) is your spouse, (2) is less than 10 years younger than you, (3) is under age 18 or (4) is disabled or chronically ill. In these cases, the stretch approach or a hybrid stretch approach is still possible. If your beneficiary is a "conduit" or "accumulation" trust, the IRA stretch benefits for which these trusts were designed are no longer available.

If you have not designated a beneficiary of your IRA, if your "estate" is the beneficiary or if a trust (other than a "conduit" or "accumulation" trust) is the beneficiary, the full IRA must generally be distributed (and the associated income taxes paid) within 5 years of your death.

Other changes made by the Act, not all pertaining to IRAs, include:

- The date by which you must begin taking distributions from your IRA (the so-called "required beginning date") has been extended to April 1 of the year following the year in which you turn 72. If you turned 70½ in 2019, you are subject to the old rule and your required beginning date is April 1, 2020.
- If you have earned income, you may contribute to an IRA even if you are over age 70½.
- You may take early distributions from your IRA to assist with the expenses of the birth or adoption of your child. Previously, such early distributions were subject to a 10% penalty.
- You may now use funds in a 529 education savings account to repay certain student loans incurred by the 529 account beneficiary, capped at $10,000 each. Such funds may also be used to pay for certain registered apprenticeship programs.
- Under prior law, the "kiddie tax" (income tax on your child's unearned income) was imposed at the compressed brackets and rates applicable to trusts. Now, the kiddie tax is imposed at your marginal income tax rate as the parent. You may amend your 2018 and 2019 tax returns to retroactively apply this new rule.

Of course, there are nuances in the new rules and exceptions to the exceptions, so please contact us if you'd like to review your particular circumstances so that we can advise you further.

Embarcadero Place | 2400 Geng Road, Suite 110 | Palo Alto, CA 94303
Phone: 650.328.7000 | Fax: 650.329.8925 or 650.327.2501 | www.lakinspears.com