JANICZEK
WEALTH MANAGEMENT

Pros & Cons of the "SECURE ACT" and What to do About Them

Timely tax planning and estate planning tactics to consider in 2020 and beyond

"This short guide summarizes the three most relevant tax code changes put into law by the SECURE ACT and provides a variety of timely tax and estate planning tactics for Janiczek® Wealth Management clients and friends to consider in 2020 and beyond."

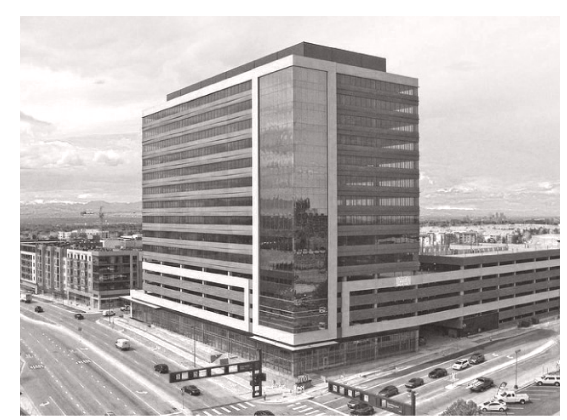
Dear Janiczek® Wealth Management Clients and Friends,

The new tax act ("SECURE ACT") signed into law December 20, 2019, radically changed the income tax and estate planning landscape, particularly for individuals and couples with substantial amounts in retirement accounts.

This act is estimated to increase the tax revenue of the United States government $15.7 billion over the next decade, mostly by accelerating the taxability of retirement income benefits received by non-spouse beneficiaries.

This short guide summarizes the three most relevant tax code changes put into law by the SECURE ACT and provides a variety of timely tax and estate planning tactics for Janiczek® Wealth Management clients and friends to consider in 2020 and beyond.

As always, if you have any questions regarding these retirement, income tax, and estate planning matters, be sure to discuss them with your trusted advisor team; namely us, your CPA and your estate planning attorney.



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Executive Summary

Signed into law December 20, 2019, the SECURE ACT has radically changed the income tax and estate planning landscape for individuals and couples with substantial amounts in retirement accounts (IRA's, 401ks, defined contribution plans, profit sharing plans, etc.)

The most significant change accelerates the taxability of retirement income benefits received by the non-spouse beneficiaries of such plans (children, grandchildren, etc.).

In short, for over 30 years, the go-to strategy for individuals and couples with substantial amounts in tax-favored retirement plans has been known as the "stretch IRA". This approach allowed inherited tax-favored retirement accounts from one generation to remain tax-deferred, with the exception of a specified annual amount, for the lifetime of the next generation.

For example, under the prior tax code, a 50-year-old son or daughter inheriting a retirement account from a parent could stretch the tax deferred treatment of the retirement assets for 34.2 years, a young grandchild or great grandchild could stretch it as long as 80 years.

The SECURE ACT swept this "stretch-IRA" option away. It has been replaced by a **10-year payout rule**. While this tax act has changed other rules worthy of your attention, this change is by far the most significant.

Top 3 SECURE ACT Topics of Discussion for Janiczek® Wealth Management Clients:

1. The 10-Year Payout Rule
2. Change in Required Minimum Distribution (RMD) Rules
3. Change in 529 Plan Rules

The 10-Year Payout Rule

In summary, under this new tax act, the full amount in inherited retirement accounts must be distributed and made taxable (ordinary income tax rules apply) by December 31 of the tenth year after the death of the person whose retirement account was inherited. The impacted retirement account beneficiary can elect any combination of taxable distributions over the ten years, such as 10% a year for ten years, 0% for nine years and 100% the tenth year and so on. This will require some personalized tax and financial planning, at that time, to figure out what is best for each retirement account beneficiary.

The problem is, the beneficiary is much more likely to be forced into a higher tax bracket (particularly compared to what they would have been in with the older "stretch-IRA" method). Thus, not only does this 10-year payout rule ***accelerate*** the timing of the taxes (likely much sooner) but also likely ***increases*** the income tax rate (likely much higher) the next generation will pay on the inherited retirement account assets.

In other words, the next generation receiving a $1 million retirement account inheritance is really receiving $1 million in taxable income they must take and report on a tax return within ten years. The net inheritance of the retirement account will therefore be much less than the gross amount inherited.

As much as half the gross amount may go to Federal and State income taxes, possibly more if the beneficiary resides in high income tax states like New York and California.

This rule applies whether the beneficiary receives the retirement account assets outright or via a trust. Since trust income tax schedules climb up to the top tax rate at a much faster pace than individual tax schedules, this 10-year Payout Rule may be even harsher to beneficiaries who receive their inheritance of the retirement assets through a trust vehicle.

We anticipate the SECURE ACT will impact many of our clients here at Janiczek Wealth Management. The remainder of this guide will highlight key retirement, tax and estate planning tactics we plan on reviewing with each client (and their respective tax compliance and estate planning counsel) throughout 2020 and 2021. Not only do these tactics respond to the new 10-Year Payout Rule, but also to other changes put into law by the SECURE ACT concerning **Required Minimum Distributions (RMDs)** and **529 Plans**.

SECURE ACT Change of Concern #1: The new 10-Year Payout Rule

As explained in the Executive Summary, this new 10-year Payout Rule will likely accelerate the taxation and likely increase the tax rate your beneficiaries (children, grandchildren, others) will pay on inherited retirement account assets. This tax code change, we believe, potentially has the most significant negative impact on the retirement, tax and estate plans of most of our clients.

Accordingly, we have laid out a variety of new tactics to consider to potentially mitigate or eliminate such negative consequences. It is these items we will review with you, as applicable, in one of our upcoming Clarity Sessions:

The Janiczek® Response:

- Consider selectively converting portions of your retirement accounts to Roth IRAs, if you can or will naturally (or via tax smart moves) be in a lower tax bracket. This tactic can potentially lock in lower tax rates for the retirement assets, making the 10-year rule less burdensome on your beneficiaries. We anticipate collaborating with clients and their CPAs annually regarding this tactic.

- If you are charitably inclined and have plenty non-retirement resources to go to family members, consider changing the beneficiary of the retirement accounts directly to charities to avoid income and estate taxes on the retirement accounts altogether. If your estate plan already specifies assets to charities but does not specify the sums to come out of retirement accounts, a simple change in the retirement account beneficiary election coinciding with a change in wording/instructions in your estate plan may achieve your objective more efficiently.

- If you are charitably inclined, but still want a majority of your retirement assets left to non-charity beneficiaries, consider a charitable remainder trust as the beneficiary of the IRA as an alternate way to stretch the annual payout to the beneficiaries beyond 10-years (this method would function much like the stretch-IRA method mentioned above in the Executive Summary) while also helping a charity of your choice at the death of your beneficiary(s).

- If you are charitably inclined and age 70 ½ or older in 2020, consider taking up to $100,000 per year out of your IRA as a Qualified Charitable Distribution (QCD) without this amount counted on your tax return as taxable income or as an itemized charitable deduction. This can allow clients who have no other reason to itemize deductions, such as those with no mortgages and low medical expenditures, to benefit by the standard deduction while still enjoying a tax-advantaged way to give to charities.

- If one or more of your beneficiaries are spendthrifts (if they received the retirement assets within ten years, they'd likely spend it all in that short period of time) or other reasons exist to control and/or protect the assets (from lawsuit, divorce, creditors, etc.), consider setting up an accumulation trust for such beneficiary(s). This trust would still need to cash out the retirement plan within 10 years, causing an accelerated tax bill at the high-income tax rates of the trust, but the trust can still control distributions and access to the beneficiary(s).

- If the beneficiary of your retirement accounts will meet one of the noted exceptions in the tax code, such as a disabled or chronically ill beneficiary, a minor child or a sibling within 10-years your age, the 10-Year Payout Rule may not fully apply. Accordingly, if you have beneficiaries who fall into one or more of these exception categories, altering your plan to maximize the use of the exclusion is worthy of consideration.

- Regardless of any of the above, an estate plan review of how your overall estate plan flows, including retirement account assets under this new 10-Year Payout Rule, is advisable. Your estate planning attorney will be in the best position to determine how any trusts or other provisions built into your estate plan were impacted by the SECURE ACT and advise you if any adjustments need to or can be made. If you were coming up to a normal estate plan review discussion with your estate planning attorney, this change in the tax act offers a great opportunity to handle normal checks and specific checks related to this tax act change.

SECURE ACT Change of Concern #2: Change in Required Minimum Distribution Age

This is a positive change. Starting in 2020, the SECURE ACT increases the required minimum distribution (RMD) age from 70 ½ to 72. This is the one of the few positive changes of the new tax act that will favorably impact anyone younger than 70 ½ in 2020. In short, clients presently under 70 ½ will be able to defer the start of mandatory taxable distributions on their retirement accounts for an additional 1.5 years. For clients over 70 ½, already on an RMD payout schedule, this change has no impact.

The Janiczek® Response:

- If you are under age 70 ½ in 2020, this change should have a slight positive impact on your long-term financial security and independence. In short, we anticipate the two extra years of lower income taxes and two more years of tax deferred compounding to slightly improve the Lifestyle Protection Analysis ratings of our clients.

- If you are under 70 ½ in 2020, this change may open the door a little wider for a partial Roth Conversion to be used during lower taxation years. See this tactic under the 10-Year Payout Rule commentary.

- As mentioned above, if you are charitably inclined and age 70 ½ or older in 2020, consider taking up to $100,000 per year out of your IRA as a Qualified Charitable Distribution (QCD) without this amount counted on your tax return as taxable income or as an itemized charitable deduction. This can allow clients who have no other reason to itemize deductions, such as those with no mortgages and low medical expenditures, to benefit by the standard deduction while still enjoying a tax-advantaged way to give to charities. Note that even though the rule on RMDs changed (in favor of taxpayers) to age 72, this favorable rule on QCDs remains at 70 ½.

SECURE ACT Change of Concern #3: The new 529 Plan Rules

This is another positive change. If you set up 529 Plans for kids, grandkids, nieces or nephews, or others, note that the SECURE ACT now allows these plans (for federal tax purposes*) to cover the costs associated with registered apprenticeships and up to $10,000 of qualified student loan repayments.

The Janiczek® Response:

- If you set up 529 Plans for others, this will be a good time to check on how these set aside funds can benefit your loved-ones now or in the future. Explaining to these 529 Plan beneficiaries and/or their parents how these resources can be used is a great way to help them think about the future and make the most of this gift.

- If you have a goal to financially assist your children, grandchildren or others by funding a 529 Plan, or other vehicles that can achieve a similar objective, talk to us. We can review the pros and cons of the different types of plans and help you execute an effective plan.

* Check your state tax code for state tax rules

How to Lever our Clarity Sessions to consider SECURE ACT retirement, tax and estate planning actions in 2020 and 2021

- A portion of our Clarity Sessions with clients in 2020 and 2021, will be dedicated to potential actions related to the SECURE ACT. We have special analysis and slides customized around each tactic to help clients prudently assess and review their needs around these tax law changes.

- When conducting tax planning sessions with your CPA, be sure to mention the SECURE ACT and gain their input and suggestions on the matter. A common outcome of the Clarity Session will be to engage your CPA into the conversation as tactics are reviewed and implemented.

- When conducting estate plan reviews with your attorney, mention the SECURE ACT and gain their input and suggestions on the matter. Another common outcome of the Clarity Session will be to engage your estate planning attorney into the conversation as tactics are reviewed and implemented.

Bonus offer for Guest Reviewers of SECURE ACT report who are not-yet Janiczek Clients

Whenever you are ready...here are three ways we can help you gain more clarity and act with more confidence and direction in 2020 and beyond:

1. **Want a free Investment Review?**
   Our investment team will look at key indicators related to your portfolio and provide comments on observed portfolio strengths, weaknesses and/or opportunities for improvement.

2. **Want a free Retirement Review?**
   Our retirement specialists will examine your path on the Stages of Financial Freedom and provide useful comments and observations based upon their findings.

3. **Want to meet with us to pinpoint exact ways to upgrade your support and results?**
   We are happy to arrange a Discovery Session designed to uncover needs and opportunities across all financial, investment, wealth and retirement disciplines.

Just call or email Cathy Wegner, Director of New Client Engagements at **303-721-7000** or **cwegner@janiczek.com** with **“Let’s Talk”** in the subject line, and she’ll begin the conversation and assist you in getting you what you want and need.

Does the economy, investment markets or tax code ever come up in conversations with colleagues or friends?

When they do, call us at 303-721-7000 and we'll immediately send you (by mail or email) our latest Outlook Report, Retirement Guide or Tax Alert to give them. Packed with the exact talking points they need, they'll love you for sharing such useful information with them.

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