# The SECURE Act

"Setting Every Community Up for Retirement Enhancement Act of 2019"

Medina County Estate Planning Council

The purpose of this discussion today will be to provide the primary parts of the SECURE Act and how they will impact our clients.

The format of today's lunch presentation is meant to foster active dialogue with the members of the Medina County Estate Planning Council and its guests.  All Council members are encouraged to participate by offering planning opportunities that address each of the relative components of the SECURE Act.

Many of the Act's provisions need additional guidance…as we know, Congress creates the language, and then the IRS, Department of Labor, etc. must do their best to interpret and provide guidance.

The format of the following presentation is meant to provide starting points for a discussion on some of the provisions of the SECURE Act.

# 1) The elimination of the Stretch IRA

- If an IRA owner is planning to leave a retirement plan to her beneficiaries, they will no longer be able to take the proceeds over their life expectancies. Rather, the maximum withdrawal period will now be ten years.
- The beneficiary does not need to take annual distributions during this ten-year period; rather, he or she simply needs to make sure that the entire benefit is distributed by December 31st of the year that includes the ten-year anniversary of the death of the owner.
- This new "ten-year" rule does <u>not</u> apply to the following:
  - The surviving spouse
  - Minor Children
  - Disabled or chronically ill individual
  - Individual who is not more than ten years younger than the IRA owner
- The new rules only take place for deaths of IRA owners <u>after</u> 12/31/2019.

# 2) The required beginning date for mandatory distributions is now the year in which the IRA owner turns 72

- This new rule only applies to individuals who had not turned 70½ years old by 12/31/2019 (that is, individuals born prior to 07/01/1949)
- NOTE:  qualified charitable distribution (“QCD”) rules remain the same; that is, IRA owners can still make QCDs when they obtain the age of 70½

# 3) IRA owners over the age of 70½ can now contribute to an IRA if they have earned income

# 4) The SECURE Act permits the establishment of Multiple Employer Plans (MEPs)

- The Act creates “Open MEPs” or open multiple employer plans (also referred to as PEPs, or pooled employer plans), allowing two or more unrelated employers to join a pooled employer retirement plan
- Section 101 of the SECURE Act provides that in the event a single employer fails to fulfill obligations, the IRS can essentially disqualify that employer’s portion of the plan, while allowing the “master plan” to maintain its qualified status

5) The maximum 401(k) contribution for employers using an automatic enrollment safe harbor plan is increased from 10% to 15%

6) With regards to the annual notice for safe harbor plans, the Act both eliminates the required annual safe harbor notice for plans making nonelective safe harbor contributions and allows a mid-year conversion to a safe harbor plan

# 7) The Act provides an increase in the tax credit for startup retirement plans

- The amount of the tax credit increases from $500 per year up to $5,000 per year for three years.

# 8) Certain taxable non-tuition fellowship and stipend payments will now be treated as compensation for IRA purposes

# 9) Qualified cash or deferred arrangements must allow long-term employees working more than 500 but less than 1,000 hours per year to participate

- If a part-time employee has worked more than 500 hours for three consecutive years and meets the minimum age requirement for eligibility to participate, he must be offered the opportunity to do so (NOTE: in effect for plan years beginning after 12/31/2020)
- This does not mean that part-time employees must be included in 401(k) plans for plan years beginning in 2021; rather, this is when employers must start counting hours for eligibility purposes
- Due to timing, the practical effect is that it won’t be until 2023 that plan sponsors will have their first batch of long-term, part-time employees covered in their plan
- Employers do not need to offer these part-time employees any employer contributions, but must allow them to make employee deferrals
- Plan sponsors do not have to include these part-time employees in their non-discrimination testing

# 10) Penalty-free withdrawals from retirement plans for individuals in case of the birth of a child or adoption

- The SECURE Act allows new parents to take penalty-free distributions from their retirement plans within one year of a child’s birth or the finalization of the adoption to cover related expenses
- There is a $5,000 limit per occurrence
- Withdrawals can be repaid to the IRA later

# 11) Qualified retirement plans are now required to show plan participants what income their plan balance is likely to generate in retirement

- The Department of Labor is to provide a model disclosure

# 12) The deadline for implementing a new plan has been extended

- Beginning in 2020,  employers may adopt plans that are entirely employer-funded - such as stock bonus plans, pension plans, and profit sharing plans - up to the due date (including extensions) of the employer’s return

# 13) Employer retirement plans can now more easily offer annuity options to their participants

- The SECURE Act creates a safe harbor for employees to offer annuities in their 401(k)

# 14) With regards to 529 plans, funds can now be used for registered apprenticeships, home/private /religious schooling and up to $10,000 of qualified student loan repayments

- Prior to the SECURE Act,  qualified educational expenses were limited to $10,000 for K-12  tuition annually (per beneficiary) and college expenses such as tuition and fees, room and board, textbooks, computers and required equipment, and necessary supplies for special needs students
- A lifetime limit of up to $10,000 from a 529 plan may now be used to repay a beneficiary's student loans and an additional $10,000 from the same plan may be used for a sibling's student loans
- Qualifying apprenticeship programs are those registered and certified with the Secretary of Labor under Section 1 of the National Apprenticeship Act

# 15) The SECURE Act reverts the taxation on certain unearned income of children back to the tax rates of the parents

- This change makes the rules consistent with those in effect prior to the Tax Cuts and Jobs Act (TCJA)
- TCJA created some presumably unintended consequences
- SECURE Act rules are in effect for tax years beginning after 2019, with the option to use the new rates for 2019 and amend 2018

16) For contributions made to IRAs after December 20, 2019 (and retroactively starting in 2016 for contributions made to certain qualified retirement plans), the new rules allow home healthcare workers to contribute to a retirement plan or IRA by providing the tax-exempt difficulty-of-care payments are treated as compensation for purposes of calculating the contribution limits to certain qualified plans and IRAs

17) Under the Act, 401(k), 403(b), and 457(b) plans may make a direct trustee-to-trustee transfer of the lifetime income assets to another eligible retirement plan or IRA

# That’s All Folks…