# The End of the Stretch IRA: Planning Opportunities Under the SECURE Act

One of the most powerful tools in the IRA owner's toolkit has been the ability to stretch an inherited IRA over the beneficiary's lifetime, potentially mitigating income tax rates while leaving the majority of the assets to take advantage of tax-free accumulation. However, the new year saw the death of the "Stretch IRA."

The Setting Every Community Up for Retirement Enhancement (SECURE) Act was signed into law by President Trump on December 20, 2019, and is effective as of January 1, 2020 (for most provisions).

The Secure Act has some wins for IRA owners saving for retirement income:

- Required minimum distributions from qualified plans must begin no later than April 1 in the year following the year when a taxpayer turns 72 (instead of 70½).
- Tax deductible contributions to IRAs after 70½ are now allowed.
- Taxpayers may withdraw up to $5,000 penalty-free from a qualified plan in the year following the birth or adoption of a child.
- Employers must include long-term, part-time workers in employer-provided qualified plans.
- Employer-provided plans that automatically enroll employees may allow elective contributions up to as much as 15% of an employee's salary, (instead of 10%) after the first plan year.

However, the Act isn't as kind to individuals inheriting an existing IRA. "Non-eligible designated beneficiaries" will be unable to use Stretch IRAs to extend distributions for life. In constricting the payout period, distributions will be larger, potentially pushing the beneficiary's tax bracket higher while limiting growth on the deferred amounts. Defined contribution plans (401(k), profit sharing, etc.) and IRA balances must now be distributed by the end of the 10th year after the employee or IRA owner dies, with some limited exceptions. The 10 year rule does not apply to any portion payable to an "eligible designated beneficiary" such as:

- The surviving spouse, who would be allowed to "stretch" the post-death distributions over life or a period not exceeding life expectancy
- Minor children of the deceased participant (but only during the period while they are still minors)
- Chronically ill or disabled individuals, and certain trusts that benefit these individuals

It is also important to note that if a beneficiary is not named, a five year pay-out is required.

## The Stretch Alternative

Where the IRA owner does not need the IRA for retirement income, but rather planned on leaving the IRA to non-spousal beneficiaries, they should consider taking current withdrawals, paying income taxes on the distributions and then gifting monies to an irrevocable life insurance trust (ILIT) to purchase life insurance. The cash values inside life insurance grow on a tax-free basis, while the policy's death benefit would be also income and estate tax-free. An ILIT could allow distributions to beneficiaries over their lifetime or a set term of years, subject to the terms of the trust, which would mirror the IRA stretch. Additionally, while inherited IRAs aren't given the same creditor protections as traditional IRAs,* an ILIT can provide creditor protection for beneficiaries.

## The Bottom Line

Purchasing life insurance inside an ILIT with taxable distributions from an IRA may provide a larger after-tax inheritance and more flexible benefit to heirs, while insulating the assets from creditors.

* *Clark v. Rameker,* 573 U.S. 573 U.S. 2014.