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## The SECURE Act and the Elimination of the Stretch IRA May Require Action

**Legal Update**

12.31.2019

On December 20, 2019, President Trump signed the Setting Every Community Up for Retirement Enhancement (SECURE) Act. The SECURE Act is the biggest legislative change to the U.S. retirement system in over a decade and will have a significant impact on qualified retirement plans and individual retirement accounts (IRAs). The law takes effect on January 1, 2020, and applies to the IRA of any person who reaches age 70 ½ after December 31, 2019, or who dies after December 31, 2019. The IRAs of account owners who died prior to December 31, 2019, will not be affected.

Some of the most noteworthy features of the Act include raising the age for required minimum distributions (RMDs) from age 70 ½ to 72 and removing the age limitations for IRA contributions (previously 70 ½). Other notable changes include the expansion of 529 education savings accounts to cover the costs associated with apprenticeships, homeschooling, private and religious schools, and to permit the use of up to \$10,000 for student loan repayment.

From an estate planning perspective, the most significant change relates to the elimination of the stretch IRA. Prior to the passage of the Act, beneficiaries of inherited IRAs could extend or “stretch” required minimum distributions (RMDs) over the course of their lifetimes, thereby receiving the benefit of years of tax-deferred growth. For example, a 20-year-old beneficiary of a grandparent’s IRA could stretch RMDs over the course of his or her lifetime (60+ years).

The stretch IRA has been an integral estate planning strategy, especially for owners of larger IRA accounts. The Act eliminates the stretch IRA, requiring inherited IRA funds to be distributed in full, along with the associated income tax responsibility, within 10 years following the original account owner’s death.

The exceptions to this rule are limited. The 10-year distribution requirement does not apply to surviving spouses, disabled or chronically ill persons, minor children or beneficiaries who are less than ten years younger than the original IRA owner.

The elimination of the stretch IRA may have unintended consequences, particularly when a trust is named as the beneficiary of a retirement account. Trusts are subject to the 10-year distribution requirement discussed above, other than certain types of

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trusts for the favored beneficiaries described in the preceding paragraph. This result may be incompatible with the settlor's goals, especially if the trust is designed as a "conduit" trust. A conduit trust is a type of trust that was commonly used prior to the Act as one way to qualify the trust for a stretch payout and requires the trustee to immediately pay all IRA distributions outright to the trust beneficiary.

As a result of the SECURE Act, the beneficiary of a conduit trust will now receive the entire inherited IRA balance within 10 years, regardless of the value of the IRA, any surrounding circumstances or the settlor's intent. The distributed funds would be subject to the beneficiary's exclusive control and no longer protected from the beneficiary's creditors.

With the passage of the SECURE Act and the elimination of the stretch IRA, IRA owners should review their current beneficiary designations and their overall estate plans to ensure that their estate planning objectives will continue to be met under the new rules. We recommend clients contact their primary attorney in Fredrikson & Byron's Trusts & Estates Group to review their existing plan and to discuss the implications of the SECURE Act for their particular circumstances.