How the SECURE Act may impact tax-deferred retirement accounts

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For the first time in over a decade, the U.S. Congress is working to make major changes to tax-deferred retirement accounts. By a vote of 417 to 3, the U.S. House of Representatives recently passed the SECURE Act, which will now move to the Senate. It is possible that the Senate will pass the bill, likely incorporating minimal changes to the House version, and it could then be signed into law by President Trump before the end of this year.

Proposed changes for tax-deferred retirement accounts

Overall, the SECURE Act aims to respond to the trend of middle-class Americans who have not saved enough for retirement.[1] Some studies suggest that well over half of all Americans have far too little savings set aside for retirement or emergencies. Specifically, in a nod to many Americans retiring later or working part-time in their sunset years, the Act would remove the previous age cap — now set at 70.5 years of age — on pretax traditional Individual Retirement Account (IRA) contributions.[2] Additionally, current law requires retirees to begin withdrawing funds from IRAs and 401(k) plans at 70.5 years of age, but the proposed changes would instead mandate that withdrawals begin at 72 years of age, under a more simplified withdrawal schedule.[3]

Provisions for small businesses and part-time employees

Aside from the changes to the age rules surrounding contribution and withdrawal, the SECURE Act aims to increase access to tax-deferred retirement accounts among part-time and small business employees.

First, the Act would allow employers to band together in offering 401(k) plans, which will conceivably allow greater bargaining power on fees and reduced administrative costs for smaller employers. Next, the Act would allow long-term, but part-time, employees to participate in 401(k) plans. The law would also make it easier for employer-sponsored 401(k) plans to offer annuities — which are intended to act as insurance against living beyond one's retirement assets — by offering employers a legal safe harbor from liability.[4]

Other provisions

The Act also includes provisions to help families. For example, parents would be able to withdraw up to $10,000 from a 529 education savings accounts to pay for student loans. Additionally, parents could withdraw up to $5,000 penalty-free from retirement accounts to help pay for the birth or adoption of a child.[5] The House version of the bill also includes changes to the so-called "kiddie tax," which

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[1] Diane Oakley, Jennifer Erin Brown & Joelle Saad-Lessler, "Retirement in America: Out of Reach for Most Americans?" National Institute on Retirement Security, September 2018.
[2] U.S. House of Representatives Ways and Means Committee, 2019.
[3] Anne Tergesen & Richard Rubin, "House Passes Bill Making Changes to U.S. Retirement System," *The Wall Street Journal*, May 23, 2019.
[4] Ibid
[5] U.S. House of Representatives Ways and Means Committee, 2019.

inadvertently boosted tax rates on income received by surviving children of deceased active-duty military or law enforcement personnel.

In a similar vein as the SECURE Act, other retirement bills in the works may give employers a greater incentive to contribute more to employee IRAs and could provide an incentive for employers to make IRA contributions when the employee is making significant student loan payments.

Paying for the changes

To pay for the changes, people who inherit tax-advantaged accounts — aside from accounts inherited by surviving spouses and minor children of the deceased — would have to withdraw the money within ten years of inheriting. This proposal would eliminate the "stretch IRA" tax planning strategy, which allows those inheriting tax-advantaged accounts to stretch out withdrawals and taxes due over their lifetime.

Reducing the ability for those inheriting a tax-deferred account to engage in highly versatile tax planning is estimated to raise $16 billion in additional revenue for the federal government over the next decade.[6] These proposed changes, on the margin, could reduce the advantage of using tax-deferred retirement strategies for relatively wealthier Americans.

More decisions to be made prior to year-end

As mentioned, this bill still needs to be reviewed and passed by the Senate and then signed into law by the President. This means there could be changes to what has originally been proposed by the House. If you or a family member have questions about the SECURE Act and how it might affect your retirement plans, please contact us.

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[6] Anne Tergesen & Richard Rubin, "House Passes Bill Making Changes to U.S. Retirement System," *The Wall Street Journal*, May 23, 2019.