

Key elements of the SECURE Act

On Friday, December 20, 2019, President Trump signed a year-end spending bill into law, which includes a piece of legislation that will have a tangible impact on how Americans save for retirement: The Setting Every Community Up for Retirement Enhancement (SECURE) Act. The SECURE Act is now effective starting on January 1, 2020.

Summary of provisions

- Increase age for required minimum distributions (RMD's) from age 70.5 to age 72
- Repeal maximum age to contribute to Traditional IRAs. If individual has earned income, s/he can contribute to an IRA
- Penalty-free withdrawals for birth or adoption
- Expansion of 529 plans
- Modifications to required minimum distributions for inherited IRAs.
- Annuities inside qualified plans now allowed

The Good

- The current age a taxpayer must begin taking RMDs is the later of April 1 of the year after the year they turn 70.5 or April 1 of the year after they retire, unless they own more than 5% of their employer. (This typically means folks start their RMDs in the year they turn 70.5. BUT now, the new rule extends the age from 70.5 to 72 (if haven't reached the age of 71.5 by December 31, 2019).
- The current rule states that you may not contribute to a Traditional IRA after reaching 70.5, even if you have adequate earnings. BUT the new rule eliminates this age cap so all taxpayers who have earned income after age 70.5 can contribute to an IRA.
- Penalty-free but not tax-free distributions will be permitted from retirement plans for the birth of a child or adoption up to \$5,000. This distribution is allowed in the one-year period after the birth of the child or adoption is finalized.
- Expansion of 529 Plans now allows for repayment of qualified student loans (principal and interest) is allowed from Section 529 Savings plan up to \$10,000 total (one year or several).
- Multiple employer plan provision

The Bad

- Stretch IRAs have been eliminated, for the most part. A surviving spouse, children under the age of majority, disabled, chronically ill, and individuals not more than 10 years younger than the decedent can still stretch an inherited IRA over his/her lifetime. BUT anyone else must fully liquidate the inherited IRA within a 10-year period. This can be spread out or taken all at once.
- Annuities will allow employers to permit annuity options without fear of **fiduciary legal constraints**. In other words, the employer can abdicate its fiduciary responsibility by

simply selecting various annuity options for employees to choose from. While annuities can serve certain individuals well, they are typically very expensive and perform poorly as a vehicle to amass retirement savings.

Detailed Highlights of the SECURE Act

The SECURE Act brings important changes to the way Americans save for retirement and is said to be the biggest piece of retirement legislation in the past decade. Let's look at some of the key elements that are included.

Extends Required Minimum Distribution (RMD) age from 70.5 to 72

Previously, investors were required to begin taking a minimum distribution amount from their IRA, 401(k), or other similar accounts by the time they reached the age of 70.5. The penalty for an investor who does not take their RMD is severe as shortfalls are subject to a 50 percent penalty. Under previous law, say an investor had an IRA worth \$400,000 and is 71 years old. If they were to miss taking their RMD, a total of approximately \$15,094.34, they would have incurred a penalty of \$7,547.17 for doing so.

Under the SECURE Act, investors can wait on taking RMDs until the age of 72, allowing for more time to have their retirement accounts grow. This extended period is important as we continue to see an increase in both life expectancy and retirement age. Additionally, this helps clear up possible confusion of dealing with a half-birthday.

Allows for IRA contributions past age 70.5

Along with being able to keep retirement accounts growing for an additional one and a half years, investors can continue making tax-favorable contributions to their IRAs past the age of 70.5 under the SECURE Act.

This, along with the extended RMD period, is extremely beneficial to individuals who find themselves working past the age of 70.5. Now, these individuals will be able to maximize the benefit of the income they earn between the ages of 70.5 and 72.

Elimination of stretch IRA

Identified as one of the biggest setbacks of the SECURE Act is the elimination of the stretch IRA, which is the practice of stretching inherited retirement account distributions over an entire lifetime. While spouses continue to have this ability, non-spouse beneficiaries need to take distributions to deplete the inherited retirement account within 10 years. This change is sure to alter the way estate planning is handled moving forward.

It is important to note that this change is designed to close this loophole for the future and beneficiaries who inherited an IRA before the end of 2019 are still be able to take stretch IRA distributions over their lifetime.

Multiple Employer Plan provision

The SECURE Act also aims to open the availability of retirement accounts to more Americans by allowing unrelated small businesses to pool together and offer their employees retirement plans. This change is intended to reduce the burden that small businesses may have when considering the implementation of a retirement plan for their employees, which can include a list of additional administrative and fiduciary responsibilities.

Further, startups are now more incentivized to implement a retirement savings plan, with tax credits for doing so increasing from \$500 to \$5,000 and being offered a \$500 credit for plans that are set up with automatic enrollment.

Increasing employee access to retirement savings plans is crucial as work-based plans are the primary way that most Americans save for retirement today. According to [research from Pew Charitable Trusts](#), fewer than 15 percent of U.S. households save for retirement outside of work-sponsored plans. This increased availability for small businesses is crucial as [research from the Census Bureau](#) in 2018 found that just 45 percent of workers at companies with 1 to 49 employees had access to a work-sponsored retirement plan, compared with 76 percent at companies of 50 to 99 employees, and 90 percent for companies with more than 100 workers.