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The SECURE Act?

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In late May 2019, with bipartisan support, the House of Representatives passed the SECURE Act (Setting Every Community Up for Retirement Enhancement Act) by a vote of 417-3. This legislation, if passed, is likely to have an impact on workers, retirees, and heirs. The SECURE Act aims to improve the nation's retirement system by providing greater access to retirement plans to more workers, as many small businesses do not offer a retirement planning option.

The bill contains three provisions, which are of significant interest to Individual Retirement Arrangement (IRA) owners:

- Required Minimum Distributions (RMD) – Beginning in 2020, the age at which an individual must begin to take RMDs will be increased from 70½ to 72.
- IRA Contributions – If an individual has earned income, beginning in 2020, she may contribute to an IRA after age 70. Previous rules prohibited IRA contributions once an individual reached age 70 despite having earned income.
- Inherited IRA RMDs – Perhaps one of the most significant proposed changes involves the rules that surround Inherited IRAs. Currently, a younger named beneficiary who inherits an IRA is allowed to "stretch" the RMDs over his remaining life expectancy. The SECURE Act would require the Inherited IRA to be fully distributed within 10 years after the IRA owner's death with a few exceptions [surviving spouses, minor children (a "stretch" would be permitted until age 18 followed by the ten-year payout provision) or beneficiaries with specified disabilities or illnesses].

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These rules, if approved, are expected to become effective beginning in 2020.

The bill proposes other changes, a few of which are outlined below:

- Penalty-Free IRA Distributions – Distributions (up to $5,000) from an IRA will be permitted without penalty (but subject to income taxation) for the birth or adoption of a child. The withdrawal must be completed within twelve months of the birth or adoption.
- 529 Distributions Expanded - The definition of higher education expenses is dramatically broadened for the purpose of tax and penalty free distributions: (i) registered apprenticeship programs that require fees, supplies, books and equipment will all be treated as a higher education expense; (ii) homeschooling expenses (books, on-line computer classes, etc.) will also now be covered; (iii) educational therapies for students with disabilities will be covered; (iv) the repayment of a student loan, up to $10,000, will be covered, for both the designated 529 account beneficiary and that beneficiary's sibling (the same $10,000 could be used to repay a sibling's school debt – but the amount is limited, not tied to the number of siblings with school debts); and (v) tuition, books, fees, and other related expenses will be covered with regard to a designated beneficiary's elementary, secondary, public, private, or religious education.
- 401(k) Eligibility Expanded / Plan Loans
  - ◊ Participation within a 401(k) plan would be expanded to include part-time employees (those who work more than 500 but less than 1,000 hours)
  - ◊ Going forward, the bill would prohibit the distribution of plan loans through credit cards or similar arrangements. This change is designed to ensure that plan loans are not utilized for routine or small

purchases (preserving their retirement savings).

- Definition of Compensation Expanded: The amounts received by an individual, as a non-tuition fellowship grant or stipend will be treated as "earned compensation" for purposes of the recipient being eligible to make an IRA contribution.

While the bill has not yet been adopted into law, Greenleaf Trust will closely monitor its progress as the Senate reviews it. It should be noted that a few years ago the Senate unanimously adopted legislation that limited the payout duration of an Inherited IRA to five years. Additionally, most of the Senators who previously approved this change still sit on the Senate Finance Committee.

Greenleaf Trust continuously examines and explores planning opportunities for each of our clients. We encourage you to reach out to your tax advisor, attorney, or a Greenleaf Trust team member with questions. As always, thank you for the opportunity to serve on your behalf.