Planning for the SECURE Act

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THE SETTING EVERY COMMUNITY UP FOR RETIREMENT (SECURE) Act was passed late in 2019 and provided for Individual Retirement Account (IRA) and pension reform, as well as certain tax provisions. These major overhauls will, in many cases, create numerous opportunities for individuals and businesses.

The first business opportunity the SECURE Act provides, is for unrelated employers to combine their retirement plans into a multi-employer plan (MEP) which could reduce overall plan expenses for employers and provide employees with better investment opportunities. Depending upon the size of the plan, the reduction of plan expenses could be significant. MEPs, however, can come with a potentially major pitfall: one bad apple in a plan could disqualify the entire plan. To safeguard employers participating in MEPs, the SECURE Act provides some relief from disqualification, but it does not protect the plans entirely. This is an extremely important factor to take into consideration when determining if a MEP is the right choice for you and your business. The opportunity to join a MEP will be allowed for plan years beginning after December 31, 2020, so there is plenty of time to make that decision.

Another business opportunity to come out of the SECURE Act is the ability for an employer to set up a retirement plan in a subsequent year for the previous year (as long as the plan is set-up prior to the tax due or extension due date). Employers will now be able to create a retirement plan at or after year end, in order to get a last-minute tax deduction. All employers should consider a retirement plan if they do not currently have one in place, or at least explore the options to determine if the numbers make sense. The tax credit for creating a retirement plan could potentially pay for all the administration required to set up the plan. Additionally, the SECURE Act increased the auto-enrollment cap into a retirement plan from 10% to 15%, allowing employers to incorporate automatic enrollment into their plans and invoke higher participation. An associated tax credit, enhanced by the SECURE Act, would be available for up to three years for those employers electing to add the automatic enrollment feature.

On the personal front, the SECURE Act's repeal of the prohibition on contribution to a traditional IRA by an individual who has attained the age 70 ½ will provide an opportunity to those still working in their seventies and eighties to contribute to their IRA. At the same time, the act pushed forward the required minimum distribution (RMD) from age 70 ½ to age 72. This presents individuals retiring early with more time to plan for those years when income might be lower. In other words, someone retiring at age 66 might have six years of lower income before the RMDs start, so they may want to convert some of their traditional IRA into a Roth IRA, reducing RMDs in the future, or capture other after-tax income to level out income prior to RMDs. Mapping out the time between retirement and the start of RMDs is critical to smart retirement planning.

Parents with children earning more than $2,100 in unearned income have run into the dreaded "kiddie tax." In 2018, the rate at which children were taxed was switched from the parents' tax rate to the tax rate applied to trusts.

The tax rates for trusts escalated steeply to 37% at only $12,750 of income for the 2019 year, so the SECURE Act has now reverted the "kiddie tax" rate back to the parents' tax rate. This change not only applies to year 2019 and forward, but it can be applied retro-actively to 2018 taxes, providing an opportunity to go back and amend 2018 returns for the "kiddie tax."

These changes are just the tip of the iceberg of the SECURE act. As with any new legislation impacting taxes, retirement or financial planning, you should review and explore these opportunities with your team of trusted advisors. ■

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