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Breaking Down the Secure Act – Required Minimum Distribution

By *Sheila Ninneman*

Benefits experts are still poring through the SECURE Act's various mandated provisions, optional provisions, and effective dates, some of which may be retroactive. This series of articles will break down the implications that the Act has for existing tax-qualified retirement plans. This article will focus on the Act's impact on required minimum distributions (RMDs) for both defined benefit and defined contribution plans. Related articles will address (1) changes that impact 401(k) and other defined contribution plans only, (2) changes for defined benefit plans only; and (3) other changes to the retirement plan landscape.

Remedial Amendment Period

Plan sponsors generally have until the last day of the 2022 plan year to adopt amendments that reflect the Act's required revisions. For calendar year plans the last day is December 31, 2022. Governmental plans have until the 2024 plan year to amend. Remember that operational compliance is still required during the period from the effective date for the Act's required changes and the date the plan is amended.

Delay of Lifetime RMDs – MANDATORY

Prior law: Distributions from an eligible employer retirement plan must be made by April 1 of the calendar year following: (a) the calendar year in which the participant turns age 70-1/2, or (b) for a participant who is not a 5% owner, the calendar year in which he or she terminates employment after age 70-1/2.

Under the Act: The required age for RMDs is raised from 70-1/2 to 72. Participants who are not 5% owners and who work beyond the required age for RMDs, under the Act still don't trigger RMDs until the calendar year in which they retire. The Act did not change the way in which 5% owners are determined. In addition, post-death distributions to a participant's surviving spouse are not required to begin before the calendar year in which the participant would have obtained age 72 (formerly 70-1/2).

Effective date: The new age applies to employees who turn age 70-1/2 after December 31, 2019; that is, for

those born after June 30, 1949. For those born on or before June 30, 1949 (already obtained age 70-1/2 prior to January 1, 2020), the prior law applies.

What to do and when: Plan sponsors should work with their service providers to track two populations: those born on and before June 30, 1949 (for whom age 70-1/2 is the RMD trigger date), and those born after that date (for whom age 72 is the RMD trigger date). Distributions of RMDs for the latter population therefore need not begin until April 1 of the calendar year following the year they attain age 72.

This change to tax-qualified retirement plans will necessitate updates to distribution forms, SPDs, 402(f) notices, and participant communications.

Post-Death RMDs are accelerated – MANDATORY

Prior law: In general, distributions are permitted to be paid annually over the beneficiary's life expectancy. In general, if the participant died before RMDs began, distributions could be made at various times, provided the entire account was distributed by the end of the fifth year following the participant's year of death.

Under the Act: Following the death of the participant, distributions must generally be made by the end of the 10th calendar year following the year of death. The determination of the 10-year period is presumably calculated in the same way that the 5-year period was calculated. Payments can be made over the beneficiary's life expectancy provided the beneficiary is an "eligible designated beneficiary", which can be the surviving spouse, a disabled/chronically ill individual, a minor child of the participant or a beneficiary no more than 10 years younger. Prior rules still apply to a beneficiary that is not a "designated beneficiary".

Effective date: The rule regarding the acceleration of post-death RMDs is effective for deaths that occur after December 31, 2019. Special delayed effective dates apply to collectively bargained and governmental retirement plans.

What to do and when: Sponsors of tax-qualified retirement plans should be working with their service providers to implement these rules now.

This change will impact beneficiary designation forms, distribution forms, SPDs and other participant/beneficiary communications.

Special note for defined benefit pension plans

The Act does not change actuarial increases required by Internal Revenue Code 401(a)(9)(C). For individuals who continue working and choose to retire late, a defined benefit plan must provide actuarial increases beginning at age 70-1/2.

Some General Thoughts

Commentators anticipate IRS guidance to provide self-correction relief for plans that fail to implement the new rules correctly during the remedial amendment period and clarify the Act's impact on current regulations. Tax-qualified plan sponsors considering an amendment prior to the remedial amendment deadline, for the sake of clarity for itself and its service providers, may want to wait to see how further guidance may affect that amendment.

Questions? Please contact the Findley consultant you regularly work with or Sheila Ninneman at Sheila.Ninneman@findley.com, or 216.875.1927