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SECURE Act: Changes to the Minimum Required Distribution Rules Affecting Retirement Plan Sponsors

Services

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On December 20, 2019, the Setting Every Community Up for Retirement Enhancement Act ("SECURE Act") was signed into law. One important law change that is *effective immediately* is the increase in the minimum required distribution ("MRD") age from 70½ to 72. This change impacts only participants who attain age 70½ in 2020 or a later year.

How did the rules work before the SECURE Act became law?

Under the old law, former employees and current employees who are 5% owners were required to begin receiving payment of their benefit beginning at age 70½. The first MRD could be delayed until April 1 following the year in which the participant attained age 70½. For example, a participant who reached age 70½ in 2019 would be required to receive an initial MRD by April 1, 2020 and a second MRD by December 31, 2020, so that the participant would actually receive two MRD payments in 2020 (unless the participant chose to take his initial MRD in 2019).

How do the rules work under the SECURE Act?

The new MRD rules work in the same manner as the old rules except that age 72 is substituted for age 70½ for individuals who attain age 70½ in 2020 or a later year.

Some plans require participant to receive a distribution of their entire account balance upon reaching age 70½ rather than receiving annual MRD payments. Is this still permitted?

Maybe. To simplify plan administration, some plans require participants to receive their entire balance upon attaining age 70½. Effectively, this requirement shifts the burden to timely make MRD payments from the plan to an IRA or other rollover custodian. Because plans are generally allowed to cash out participants upon reaching normal retirement age as defined in the plan (typically, age 65), a plan provision forcing participants out at 70½ may be allowed. However, the plan will need to be reviewed carefully to confirm that the mandatory cash-out language refers specifically to age 70½ rather than the MRD age. If the latter, a participant may not be forced out under the new law until age 72. In short, the plan should be reviewed and may need to be amended to conform the language of the plan to its operation with respect to MRD payments.

Are MRDs eligible for rollover to an IRA?

No. MRD payments are not eligible for rollover. However, because the mandatory distribution age has increased to age 72, payments made prior to age 72 to a participant who attained age 70½ after December 31, 2019 are not MRD payments and are therefore eligible for rollover. Any amount over and above the MRD amount should likewise be eligible for a rollover. This will require changes to the plan's administrative procedures and participant communications.

(*Note*: There are special rollover rules that limit the amount that can be rolled over for the year in which the participant attains age 72 (or 70½ under the prior rules) so the distributions need to be coordinated with the plan's recordkeeper.)

Do we need to amend our retirement plan before April 1, 2020 to reflect the new rules?

No. Amendments are not required until the last day of the first plan year beginning on or after January 1, 2022. For calendar year plans, the deadline would be December 31, 2022.

What else should we be doing to ensure that our retirement plan is compliant with the new MRD rules?

Plan administrators should review and revise their operational procedures to reflect the new MRD rules. The plan's recordkeeping system likely contains built-in logic that triggers MRD reminders or automatically generates MRD notices based on a required beginning date of age 70½, based on the old law.

Contact us

Please contact a member of our Employee Benefits & Executive Compensation team if you have any questions. We are closely following the SECURE Act and will apprise you of key developments.