

The IRA Authority!

IRA & Employer Plan Rules, News & Tips in Plain Language



Mark Your Calendar for These IRA Season Deadlines

January 31

January 31 is the deadline by which IRA custodians and plan trustees must provide certain retirement accounts statements to their clients. These include the following:

- **IRS Form 1099-R**

Form 1099-R is used to report distributions that occur from IRAs and employer plans during the previous year.

If the information reported on a Form 1099-R is incorrect, the issuer should be contacted immediately, so that they can make any required corrections.

Form 1099-R is not required to be filed with your clients' income tax return unless it shows amounts being withheld for income tax. However, a 1099-R should be provided to the person who prepares the account owner's tax return, as it might contain other information that is required to be reported on the client's tax return.

- **Fair Market Value Statement**

The fair market value (FMV) statement is issued for IRAs and shows the value of the IRA as of December 31 of the previous year. The FMV is used in the computation of the client's required minimum distribution (RMD), which is required to be computed for traditional IRA (including SEP IRA and SIMPLE IRA) owners who are at least age 70½ by December 31, 2019- and certain owners of inherited traditional and Roth IRAs.

- **RMD Statement**

The 2020 RMD statement must be issued to owners of traditional (including SEP and SIMPLE) IRAs who were at least age 70½ by December 31, 2019.

These must be issued by the IRA custodian that held the IRA as of December 31 of the previous year. The statement must include either the calculated RMD amount, or an offer to calculate the RMD amount upon request from the IRA owner.

April 1

- **RMD Deadline for IRA Owners Who Reached 70½ in 2019**

An IRA owner who reached age 70½ during 2019 is required to take an RMD from his IRA for 2019. However, consistent with provisions under the RMD regulations, individuals are allowed to defer their RMD for their first RMD year, until April 1 of the following year.

April 15 IRA Contribution

Your clients who want to make regular contributions to Roth IRAs and Traditional IRA for 2019 must do so by April 15, 2020. The contributions must be received by the financial institution by this date (if hand delivered) or postmarked by this date (if mailed).

Remind clients to indicate the tax year on any checks or instructions provided with their IRA contributions. If that information

In this issue, we provide a high-level overview of some of the significant provisions of the *Setting Every Community Up for Retirement Enhancement (SECURE) Act!*

is not included, the IRA custodian/trustee has the right to apply the amount to 2020, if they receive it on or after January 1, 2020.

The Secure Act: Retirement Savings Opportunities and Drawbacks

On December 20, 2019, the *Further Consolidated Appropriations Act, 2020* (FCAA) was signed into law. FCAA included the *Setting Every Community Up for Retirement Enhancement* (SECURE) Act- the most comprehensive piece of legislation in recent years. Some SECURE Act provisions affect IRAs, some affect only employer sponsored retirement plans, and some affect both.

Please note: *The IRS is expected to publish explanations of most of these provisions, and are required to create new forms and publications for affected transactions.*

IRS guidance will likely provide more clarity on the changes made by the SECURE Act. We will keep you posted of any changes as guidance becomes available.

The following highlights some of these changes by categories, so that you can easily identify the type of retirement savings account affected by the changes.

Changes that Affect Only IRAs

- *Repeal of Age Limitation for Traditional IRA Contributions*

Before the changes under the SECURE Act went into effect, an individual would not have been eligible to make a regular contribution to a Traditional IRA for a year, if that individual was age 70½ or older as of the end of the contribution year.

For instance, an individual is not eligible to make a regular Traditional IRA contribution for 2019, if that individual was at least age 70½ on December 31, 2019.

The SECURE Act repealed that age limit for Traditional IRA contributions made for 2020 and after. As a result, any individual is eligible to make a regular contribution to a Traditional IRA- for 2020 and after- regardless of age, as long as the individual has eligible compensation. This is now consistent with regular Roth IRA contributions, which have never been subject to any age limit.

- *Changes to What is Counted as Eligible Compensation*

An individual must have eligible compensation, in order to be eligible to make a regular contribution to a Roth IRA and/or Traditional IRA. Eligible compensation includes wages, salaries, tips and self-employment income.

For IRA contributions made for 2020 and after; the definition of compensation has been expanded to include certain taxable non-tuition fellowship, and stipend payments included in gross income and paid to aid in the IRA owner's pursuit of graduate or postdoctoral study.

Changes that Affect Only Employer Sponsored Plans

- *New Pooled Employer Plans*

Effective for plan years beginning after December 31, 2020

A pooled employer plan (PEP) is now a (new) option for multiple employer plans (MEP). A PEP, which would be administered by a PEP provider, allows multiple businesses to participate even if they have no common interest beyond sponsoring a plan under the program. And- unlike pre-SECURE Act MEPs, the 'one-bad apple' rule would not apply; which means that one participating employer's plan would not be disqualified just because of a disqualifying event by one member of the arrangement.

- *Fiduciary Safe Harbor for Employer's Selection of Lifetime Income Provider*

Effective as of the date the SECURE Act was signed into law

Fiduciaries now have a safe harbor, for satisfying the prudent man requirement, in selecting an annuity provider and a contract for benefit distributions from a defined contribution plan. This is for the purpose of determining if the insurer is financially capable of satisfying its obligations under the guaranteed retirement income contract.

- *Allowing Long-term, Part-time Employees to Participate in 401(k) Plans*

Effective for plan years beginning after 2020

In addition to the existing 1,000-hour rule, under which employees become eligible to participate in an employer's 401(k) plan, after working for at least 1,000 hours in one plan year; 401(k) plan sponsors must now allow long-term part-time employees to participate in the plan by making salary deferral contributions. This provision applies to employees who have worked for the employer for 3 consecutive 12-month periods, during which the employee has accrued at least 500 hours of service per year and have met the plan's minimum age requirement. This new provision does not extend to employer contributions, and such employees are not required to be included in nondiscrimination tests for the plan. This provision does not apply to collectively bargained plans.

- *New Small Employer Automatic Enrollment Credit*

Effective for plan years beginning after 2019

A new credit of \$500 per year for up to three years, is available to small employers that establish new SIMPLE IRAs and 401(k) plans that include an automatic enrollment provision.

An eligible employer, for this purpose, is one that, for the preceding year, had no more than 100 employees with compensation of \$5,000 or more. In addition, the employer must not have had a plan covering substantially the same employees as the new plan, during the three years preceding the first year for which the credit would apply.

This credit, which is for start-up costs, is also available to an employer that converts an existing plan to one with an automatic enrollment design. Employers may claim this credit, along with the plan startup credit already allowed under present law.

- *Increase in Credit Limitation for Small Employer Plan, Start-up Costs*

Effective for plan years beginning after 2019

Eligible employers are permitted to claim a nonrefundable tax credit for qualified startup costs of a new eligible employer plan; for up to three years beginning with the year the plan is first effective, or, at the election of the employer, with the year preceding the first plan year. The \$500 limit under this provision has been increased to the greater of:

(1) \$500 or

(2) the lesser of

(a) \$250 multiplied by the number of non-highly compensated employees of the eligible employer who are eligible to participate in the plan, or

(b) \$5,000.

- *Simplification of Safe Harbor 401(k) Rules*

Effective for plan years beginning after 2019

One of the administrative requirements that an employer, that adopts a safe harbor 401(k) plan must meet, is to provide certain notices to eligible employees. This includes a notice of certain minimum benefits either in the form of matching or nonelective contributions. These notices must be sent within a reasonable period before the beginning of each plan year. In general, notices are considered timely if they are provided to employees:

- at least 30 days (and no more than 90 days) before the beginning of each plan year.

- in the year an employee becomes eligible, generally no earlier than 90 days before the employee becomes eligible and no later than the eligibility date.

Under the SECURE Act, the notice requirement for nonelective 401(k) safe harbor plans have been eliminated. In addition, an employer may amend a 401(k) to a safe harbor 401(k) for a plan year to provide the required nonelective contributions at any time before the 30th day before the close of the plan year. An employer may amend a plan after the 30th day before the close of the plan year to become a nonelective contribution 401(k) safe harbor plan for the plan year if (1) the plan is

amended to provide for a nonelective contribution of at least four percent of compensation- instead of the base at least three percent, for all eligible employees for that plan year – providing the plan is amended no later than the last day for distributing excess contributions for the plan year.

- *Increase in Automatic Enrollment for Safe Harbor Plans*

Effective for plan years beginning after 2019

A 401(k) plan can include a qualified automatic contribution arrangement (QACA), which must meet certain requirements, including providing a qualified default percentage. A default contribution percentage is a qualified percentage only if it is uniform for all eligible employees, does not exceed 10%, and satisfies certain minimum percentage requirements. Under the SECURE Act, the 10% is increased to 15%.

- *Increased Penalties for Failing to File Retirement Plan Returns*

Effective for plan years beginning after 2019

For qualified plans that are required to file annual Form 5500-series returns, a civil penalty is assessed for failure to file. Effective for filing years after 2019, the penalties have been increased to \$250 per day, up to a maximum of \$150,000 for failure to file Form 5500; \$10 per day, up to a maximum of \$50,000 for failure to file Form 8955-SSA; and \$10 per day, up to a maximum of \$10,000 for failing to file a notification of change.

Employers would also be assessed a penalty of \$100 per failure, up to a maximum of \$50,000 for failure to provide withholding notices.

- *Deadline for Establishing Qualified Plans Extended*

Effective for taxable years beginning after 2019

For 2019 and earlier, the deadline for adopting a qualified plan was the last day of the taxable year for which the employer intends to make contributions to the plan. However, employer contributions can be made as late as the employer's tax filing due date for the year, plus extensions.

Under the SECURE Act, the deadline for adopting a qualified plan is now consistent with the deadline for making employer contributions- the tax filing due date of the business, plus extensions.

Caution: For 401(k) plans, which allow salary deferral contributions, such provisions must be in effect during the plan year, to allow participating employees to make salary deferral contributions for the year.

- *Portability of Lifetime Income Options*

Effective for plan years beginning after 2019

Under the SECURE Act, if a qualified defined contribution plan, section 403(b) plan, or governmental section 457(b) plan (employer sponsored retirement plan) offers a lifetime income investment as an option, and that investment is no longer authorized to be held in the plan, the plan would not fail to be an employer sponsored retirement plan by reason of allowing (1) qualified distributions of a lifetime income investment, or (2) distributions of a lifetime income investment in the form of a qualified plan distribution annuity contract.

Such a distribution must be made within the 90-day period ending on the date when the lifetime income investment is no longer authorized to be held as an investment option under the plan.

For purposes of the provision, a qualified distribution is a direct trustee-to-trustee transfer to another employer-sponsored retirement plan or IRA.

Universal Changes- Affecting Both IRAs and Employer Plans

- *Increase in the Beginning Date for RMDs*

Effective for participants who reach age 70 ½ after 2019

The SECURE Act increases the first year for which a required minimum distribution is due from age 70 ½ to age 72. As a result, the required beginning date (RBD) has been extended from April 1 of the year that follows the year in which the participant reached age 70 ½, to April 1 of the year that follows the year in which the participant reached age 72.

The new rules apply to those who reach age 70 ½ after December 31, 2019.

Participants who reached age 70 ½ in 2019 or earlier, are not affected by these changes and must continue to take RMDs.

As a result, if a participant reached age 70 ½ in 2019, that participant must take the first RMD for the account by April 1, 2020.

- *Penalty-Free Withdrawals from Retirement Plans for Individuals in Case of Birth of Child or Adoption*
Effective for distributions made after 2019

Early distributions- once taken from retirement accounts before the participant reaches age 59 ½ - are subject to a 10% early distribution penalty, unless an exception applies. A new exception has been added for qualified birth or adoption distribution.

By definition, a qualified birth or adoption distribution is one made during the one-year period beginning on the date on which a child of the participant is born or on which the legal adoption- of an eligible adoptee- by the participant- is finalized.

This is subject to a limit is \$5,000 per individual, which means that a married couple could take \$5,000 each- a total of \$10,000.

- *Change in Distribution Period for Certain Beneficiaries*
Effective for beneficiaries who inherit retirement accounts after 2019

The period over which beneficiaries may distribute inherited retirement accounts has changed, resulting in Designated Beneficiaries now being subject to a new 10-year distribution period. Under this period, distributions from retirement accounts inherited after December 31, 2019 are optional, until the end of the 10th year that follows the year the owner dies- at which time the entire amount must be withdrawn from the account.

As a result of this change, beneficiaries now fall into two categories.

1. Those who inherit retirement accounts by December 31 2019, and
2. Those who inherit retirement accounts after December 31 2019.

Those who inherit retirement accounts by December 31 2019, continue to be subject to the same distribution options that applied when they inherited those accounts. However, a successor beneficiary is-*generally*- no longer permitted to continue taking distributions over the remaining life expectancy of the original beneficiary. Instead, the successor beneficiary would be subject to the 10-year rule, starting at the time of the original beneficiary's death, unless an exception applies.

The options available to those who inherit retirement accounts after December 31, 2019 is determined by whether the beneficiary is a Nondesignated Beneficiary, a Designated Beneficiary or an Eligible Designated Beneficiary.

Eligible Designated Beneficiaries are:

- The surviving spouse of the retirement account owner (participant),
- A child of the participant who has not reached the age of majority,
- An individual who is disabled,
- A chronically ill individual, and
- An individual who is not more than 10 years younger than the participant.

An Eligible Designated Beneficiary is eligible to take distributions over that beneficiary's life expectancy, whereas Designated Beneficiaries are subject to the 10-year rule.

Nondesignated beneficiaries are still subject to the 5-year rule, if the participant dies before the required beginning date (RBD), and the remaining life expectancy of the decedent, if death occurs on/after the RBD.

- *Difficulty of Care Payments as Compensation for Determining Retirement Contribution Limitations*
For defined contribution plans, the provision applies to plan years beginning after December 31, 2015, and for IRAs after the date of enactment.

In general, contributions to a defined contribution plan or an IRA may not exceed 100% of the participant's eligible compensation.

The definition of compensation has now been expanded to include difficulty of care payments. As a result, home healthcare workers receiving such payments are now able to participate in qualified retirement plans and make contributions to IRAs, based on such payments, providing they meet any other eligibility requirement.

Opportunities Abound

Taxpayers may take advantage of new opportunities for retirement savings; such as the ability to make Traditional IRA contributions regardless of age and the more flexible eligibility requirements for participating in employer plans. For small business owners, there is even more incentive for adopting employer plans for themselves and their employees.

Of course, the potential traps should not be overlooked, such as the new reduced periods for distributing inherited assets for certain beneficiaries, and the optional distributions for the first nine years of the 10-year period. A beneficiary who does not need the inherited amounts, can allow the amount to grow tax deferred (tax-free in case of a Roth) for 10-years, and withdraw the balance at the end of the 10-year period. 🍎

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