

**PG Calc** YOUR PARTNER IN PLANNED GIVING SUCCESS

## The SECURE Act and Gift Planning



Date: February 11, 2019

Time: 1:00 – 2:00 Eastern

Presenter: Bill Laskin  
Vice President, Product Management

Andrew Palmer  
Director of Marketing Services




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## Agenda

- Context of SECURE Act
- What hasn't changed
- What has changed
- What might the changes mean for planned giving?
- Marketing suggestions

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## The SECURE Act

- Setting Every Community Up for Retirement Enhancement” Act, aka the SECURE Act
- Signed into law on December 20, 2019
- Provisions went into effect on January 1, 2020
- Changes many rules regarding retirement plans: IRAs, 401(k)s, 403(b)s, etc.

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### What HAS NOT Changed? QCD Rules

- The rules governing qualified charitable distributions from IRAs – aka, charitable IRA rollovers
  - ✓ Donor must be 70½ or older
  - ✓ Gift must be to a public charity (not to a DAF, SO, or private foundation)
  - ✓ Gift must be outright – no quid pro quo, such as gala tickets, seats at football games, or life income payments
  - ✓ Limited to \$100,000/year
  - ✓ Source can be traditional IRA, Roth IRA\*, or inactive SEP or Simple IRA
    - \* Typically, no tax incentive to make a QCD from a Roth IRA

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### What HAS NOT Changed? QCD Benefits

- The benefits of a QCD
  - ✓ Not included in income
    - Tax benefit doesn't depend on itemizing or ability to use full deduction on federal and state return
  - ✓ Counts toward required minimum distribution
  - ✓ Can fulfill a pledge
  - ✓ Beneficiary of inherited IRA can make QCDs, too, if over 70½

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### What HAS NOT Changed? Testamentary Gift Rules

- Rules governing retirement plan assets
  - ✓ If designated for estate or not designated, subject to income tax and estate tax (because not taxed before)
    - Even if no estate tax, rate could be 37%
    - If owe estate tax, combined rate can be > 60%
  - ✓ If designated outright for charity, no income tax (charity is tax-exempt) or estate tax (unlimited charitable deduction)
  - ✓ If designated for CRT or CGA, no income tax up front and reduced estate tax
    - Payments taxed entirely as income (CRTs: until funding amount distributed)

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### What HAS NOT Changed? Testamentary Gift Benefits

- Retirement assets = Income in respect of a decedent (IRD)
  - ✓ Not taxed previously, so ordinarily subject to more tax
- Gifts to heirs of non-IRD assets not subject to income tax and get step-up in basis
- For people who wish to support charity in their estate, most tax efficient to:
  - ✓ Give IRD assets to charity
  - ✓ Give other assets to heirs

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### What HAS NOT Changed? 5-Year Rule

- Assets remaining in qualified plan must be distributed within 5 years of owner's death if:
  - ✓ No beneficiary is designated
  - ✓ The beneficiary's estate is the designated beneficiary
  - ✓ The designated beneficiary is not a person or a trust that qualifies as a person (e.g., charity)
  - ✓ One or more of several beneficiaries is not a person

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### What HAS Changed?

- Rules governing "stretch" IRA
- Age required minimum distributions (RMDs) must start
- Age limit when workers can make IRA contributions

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**What HAS Changed? "Stretch" IRA Rules**

**New inherited IRA distribution rules:**

- Non-spouse beneficiary more than 10 years younger than deceased owner must empty IRA within 10 years
  - ✓ No RMDs during the 10 years
  - ✓ Exceptions to 10-year rule (in addition to spouses & beneficiaries less than 10 years younger)
    - minors (until they reach majority)
    - disabled
    - chronically ill

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**What HAS Changed? "Stretch" IRA Rules**

**Consequences of new inherited IRA distribution rules:**

- 10-year limit means bigger withdrawals
  - ✓ Could push beneficiary into higher tax brackets
  - ✓ Could increase premiums, such as Medicare Parts B & D
- Conduit trusts much less useful
  - ✓ Pass RMDs to beneficiary, but no RMDs anymore
  - ✓ Controlled heir access to principle and minimized taxes
- Accumulation trusts less useful
  - ✓ Still controls access but less effective at reducing taxes

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**What HAS Changed? "Stretch" IRA Rules**

- Testamentary CRT a potential alternative to "stretch" IRA
  - ✓ Payments for lives of beneficiaries
  - ✓ No income tax when CRT funded
  - ✓ Tax-free growth within trust
  - ✓ Income tax applied to beneficiary payments only

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### What HAS Changed? No Age Limit on IRA Contributions

- Previously, IRA owner could contribute to IRA only until age 70½
- Now, working IRA owner can contribute to IRA so long as he/she is working
  - ✓ May or may not choose to deduct contributions from taxable income
  - ✓ If worker chooses to deduct post-70½ contributions
    - Amount of subsequent QCD excludable from income is reduced by this amount
    - Rest is reported as income and deductible

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### What HAS Changed? No Age Limit on IRA Contributions

- Example
 

Donor makes QCD	\$50,000
IRA contributions deducted since turning 70½	- \$20,000
QCD excludable from taxable income	\$30,000
QCD declared as taxable income	\$20,000

((\$20,000 available as a charitable deduction, but won't offset additional taxable income if donor doesn't itemize or otherwise can't use all of deduction)
- If donor deducts no more IRA contributions and makes another \$50,000 QCD, all \$50,000 will be excludable from income.

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### What HAS Changed? No Age Limit on IRA Contributions

- Options for avoiding reduction in QCD exclusion
  - ✓ Remove IRA contribution by Oct. 15 of following year
  - ✓ Don't make IRA contributions after 70½
  - ✓ Don't deduct IRA contributions made after 70½
  - ✓ Make deductible contributions to non-IRA plan (e.g., 401(k))
  - ✓ Spouses with separate IRAs could make deductible contributions to one IRA and QCDs from another IRA

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### What HAS Changed? No Age Limit on IRA Contributions

- One more thought . . . (thank you, Russ Willis)
  - ✓ QCDs deemed to come first from amounts that would have been included in income\*
  - ✓ RMDs are deemed to come pro rata from taxable and non-taxable amounts\*\*
  - ✓ So, a program of adding after-tax amounts to a traditional IRA while withdrawing otherwise taxable amounts through QCDs would gradually lead to an increasing portion of RMDs being non-taxable.

\* (IRC Section 408(d)(8)(D))    \*\* IRC Section 408(d)(2)

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### Marketing the SECURE Act

- Make sure your website & brochures are up to date
  - ✓ QCD
  - ✓ Retirement Assets
  - ✓ Beneficiary Designation
  - ✓ Retirement Planning

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### Marketing the SECURE Act

- Should I push a SECURE Act Article?
- As a marketer:
  - ✓ The Act is not the story... but it's effect on planned giving!
  - ✓ These new rules may affect your financial and estate plans.
  - ✓ An example: The Secure Act and the QCD

Website | Newsletter | Direct Mail | Email

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**Marketing the SECURE Act**

- Don't market the announcement of a new law...
- **Do push the QCD**
  - ✓ Explain the changes – the gift is still tax-free!
- Don't market Testamentary Charitable Remainder Unitrust
- **Do push Beneficiary Designations**
  - ✓ Explain the new 10-year limitation and ask donors to reach out for solutions

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**Marketing the SECURE Act**

For a successful marketing message:

- Push benefits, not features
- Identify problems and suggest solutions
- Keep it simple
- Leave the details to a conversation, not your marketing

In sum:

- Make sure your donors are aware of the changes and keep your messaging simple

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**Free Article – Special Offer**

We will be giving all attendees this article:

**The SECURE Act and the QCD**

Also, for all interested in our Marketing Services, a special offer: we will waive our \$950 set-up fee if you become a website client by April 15<sup>th</sup>! More details to come.

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### Summary

- “Stretch” IRA no longer available for most non-spouses
  - ✓ Encourage donors to review their estate plans
- Creates stronger incentive to give retirement assets to charity
  - ✓ During life as QCDs
  - ✓ At death, designated outright or, in select situations, for a CRT or CGA
- Russell James article on LinkedIn

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### What Should You Do?

- Continue promoting QCDs and beneficiary designations as tax efficient ways to support your charity
- Train fundraising staff to talk about QCDs
- Review gift acceptance policies and acknowledgement letters for QCDs
- Consider targeted mailing summarizing new rules and promoting QCDs and testamentary gifts of retirement assets

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### Questions?

- To ask a question:
  - Click plus sign next to “Questions”
  - Type question in “Enter a question for staff” box
  - Click Send

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**Still Have a Question?**

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