

PRACTICE MANAGEMENT

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Secure 2.0: New opportunities for client discussion

Practice Management Retirement

On December 29, 2022, the 2023 omnibus appropriations bill was signed into law and with it – "SECURE 2.0 Act" became a reality. The bill includes several enhancements to the SECURE Act, which passed at the end of 2019. Both bills reflect a growing need to address retirement and financial security; its passage, with rare bipartisan support, is unequivocally a win for the profession. Myriad changes under SECURE 2.0 aim to make saving for retirement more accessible and simpler for many Americans, and for the insurance industry in particular, there are notable opportunities for client discussions this year.





Client Conversation #1 — Increased RMDs

One of the most significant changes – and opportunities – is the gradual increase in the required beginning date for mandatory distributions (RMDs) from qualified plans. Under current RMD rules, participants generally must begin taking distributions from their qualified retirement plans at age 72. The new Act increases the RMD age from 72 to 73 in 2023 and to 75 in 2033.

Who is happy about later RMD ages? Namely, those who (a) do not need RMDs for current income and (b) would prefer to delay taking RMDs to reap additional years of tax deferral. For individuals who do not need RMDs to sustain their retirement lifestyle, the qualified plan by definition becomes a "legacy" asset – i.e., an asset earmarked to be passed down as an inheritance. The fallacy of waiting to take RMDs until the required beginning date and leave the rest to heirs, however, is that after SECURE 1.0, the ability to stretch an inherited IRA over the beneficiary's life expectancy was eliminated in most cases, resulting in a loss of potentially decades of additional compounded tax growth, and IRA balances are subject to both income and estate taxes, making them highly inefficient for wealth transfer.

Rather than invest unneeded RMDs into a taxable side fund, a better option may be to "optimize" unneeded income by redeploying RMDs to purchase life insurance. If owned by an irrevocable trust, the policy can

provide additional tax efficiency, creditor protection, and control to the client. Depending on trust terms, the death benefit, which is received income- and estate-tax free if structured properly, can remain in trust for generations, essentially mimicking a lifetime "stretch," or the trustee may have broad discretionary powers to make distributions for current needs.

Client Conversation #2 — Distributions for Long-Term Care

Another provision garnering significant attention from the insurance industry is Section 334. Section 334 of the Act allows an individual to take a penalty-free distribution up to \$2,500 from a qualified retirement plan each year to pay for long-term care insurance, effective three years after the date of enactment. The impact of this new provision at first blush appears limited – the distribution is taxable and under current law, is already permissible for individuals over 59½. It is also unclear whether Section 334 applies only to standalone LTC or if LTC hybrid products and riders would qualify (although the ambiguity may have been a drafting error).

Whether it might make sense to take a pre-59 ½ distribution from a qualified plan to pay for LTC coverage will require careful analysis by a client's financial professional. The longevity of a retirement account can be adversely affected by early withdrawals, but for some, the benefits of obtaining long-term care protection may outweigh this risk.

In many ways, the opportunity in Section 334 is less about what the law is and more about what it does. Even if the financial benefit may be negligible, Section 334 is helpful in giving financial planners another tool to work with to raise awareness around the growing long-term care crisis and need to proactively plan. In this sense, Section 334 is

analogous to the state-funded long-term care programs being explored by 14 states and first enacted in Washington State. From Washington State to Washington D.C., these laws cannot singlehandedly solve the LTC crisis, but they raise awareness to the general public around a growing need to plan for long-term care.

Client Conversation #3 — QCDs

The new law also expands the rules around qualified charitable distributions (QCDs). Under Section 307, the annual IRA QCD limit of \$100,000 will be indexed for inflation and can also be directed via a one-time election into a split-interest trust such as a charitable remainder unitrust (CRUT) or charitable remainder annuity trust (CRAT). For charitably inclined individuals who may not need RMDs for current income needs, a QCD election can be a tax-efficient way to help a client achieve their philanthropic goals. The redirection of funds to charity, however, leaves less for heirs. For clients interested in redirecting funds to charity via a QCD, while still providing a legacy to their heirs, a wealth replacement trust funded with life insurance in conjunction with increased QCD opportunity could be a viable planning idea.

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Who does SECURE leave behind?

The reality is that both Acts have succeeded in expanding access to retirement savings – and that is great public policy! But even with

expansions – such as higher catch-up contribution limits at certain ages, enhanced access to SIMPLE and SEP accounts for small business owners, and more – implementing qualified plans may still be cost-prohibitive to some smaller employers and IRA contribution limits may still be woefully insufficient for high-earners and those without access to qualified plans such as stay-at-home parents or small business owners. For these individuals, a permanent life insurance policy may be an attractive supplement to traditional retirement vehicles. Potential policy cash values, which are discretionary and generally received income-tax free, can be used to help fund a variety of planning needs and provide additional tax-advantaged protection. Life insurance can also be a solution for clients seeking greater tax diversification in retirement as well as to shield against macroeconomic concerns that are top-of-mind, such as high inflation and market volatility.

Ultimately, where SECURE 1.0 created sweeping and urgent changes to retirement planning, SECURE 2.0 is perhaps more subtle in its impact and opportunity. Nonetheless, it is a win for our industry, representing a bipartisan focus on the need for financial security and presenting financial professionals with a unique and timely opportunity to have meaningful conversations with clients around their protection needs.



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