

WILLS, TRUSTS & ESTATES: PLAIN AND SIMPLE

New Retirement Account Rules

Should You Re-Visit Your Estate Planning Documents?



legally speaking By Patricia C. Marcin, Esq. © 2020

Under the SECURE act, which was passed by Congress just before Christmas, the new starting age to take Required Minimum Distributions (“RMD’s”) from tax-deferred retirement accounts (exs. an IRA, a 401(k), hereinafter “IRAs” for ease of reading) is now the year after you turn 72, up from 70 ½. Also, you can continue to contribute to your IRA as long as you like, as long as you are still working.

The big news on the estate planning front is the elimination of “stretch” IRAs for most non-spouse beneficiaries. Most non-spouse beneficiaries must now withdraw the entire assets of the IRA within ten years of the plan participant’s death. Previously, they could spread out the payments over the beneficiary’s lifetime. The assets can be taken in installments over the 10 year period, or the beneficiary can wait until the end of the 10 year period and withdraw the assets in full at that time. Whenever the distributions are taken by the beneficiary, she will have to pay income taxes on the withdrawals made in that year.

If you have created a trust that is the designated beneficiary of your IRA for your children, you should review your estate planning documents to make sure the trust carries out your wishes. Under a certain type of trust called a “conduit” trust, the trust receives the RMD(s) from the IRA and then the RMD (net of trust expenses) is paid outright to the beneficiary from the trust. Under prior law, the RMDs would be paid to the trust and pass through to the beneficiary over the beneficiary’s lifetime. Under the new law, the beneficiary of the conduit trust must receive the entire IRA within 10 years. If you do not want that beneficiary to receive the full proceeds so quickly, you will need to have the trust revised.

There are other types of trusts which are designated beneficiaries of IRAs, and each should be reviewed to confirm that your desires are being met.

If there is a trust or estates topic that you would like to know more about, please feel free to email me at pmarcin@farrellfritz.com with your suggestion and I will do my best to cover it in a future column.



Patricia C. Marcin is a partner at the law firm of Farrell Fritz, P.C. concentrating in trusts, estates and tax law. Patricia has lived in Lloyd Harbor since 2005 with her husband John. They have two sons, Sam and Matt. Their faithful dog, Blizzard, still lives at home.



“I’m so glad we updated our wills. Farrell Fritz helped us understand all the recent changes and the best part is, we minimized our estate taxes. I feel so much more secure about our family’s future.”

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