

An Update for Our Friends and Clients

Greetings from the estate planning lawyers of Dorsey & Whitney. We send our best wishes to you and your loved ones for continued good health, and we write to bring you up to date on a few matters of current interest.

Planning Opportunities

The current extreme volatility in the financial markets is unsettling to all of us, but it offers estate planning opportunities. Sharply lower equity prices and interest rates make gift and leveraged gift strategies particularly attractive. Specifically, it is an opportune time to consider:

- Gifts of equities to grantor retained annuity trusts (GRATs)
- Gifts of equities to long-term generation-skipping trusts (GST Trusts)
- Installment sales of assets to intentionally defective grantor income trusts (IDGITs)
- Low-interest loans to family members or trusts
- Refinancing existing installment sales or loans

As of January 1, the federal estate and gift tax exemption was increased to \$11.58 million per taxpayer. The exemption is scheduled to remain at its current level (adjusted for inflation) through 2025. On January 1, 2026, the exemption is scheduled to fall to \$5 million plus inflation adjustments, but depending upon the outcome of the next election cycle, the reduction could occur much sooner and the exemption could be even less than \$5 million. This is another reason to consider proactive estate planning steps in 2020.

Retirement Plan Changes

The SECURE (Setting Every Community Up for Retirement Enhancement) Act (the “Act”) became effective on January 1, 2020. The Act changes the rules governing contributions to and distributions from qualified retirement plans and Individual Retirement Accounts (IRAs), including Roth IRAs. The changes are significant and may necessitate revisions to your estate plan. We summarize the key changes here:

Related Capabilities

- Trusts & Estates
- Trusts & Estates
Litigation

Modification of required distribution rules for beneficiaries. Under prior law, an individual who inherited a qualified retirement plan or IRA was permitted to take out or “stretch” the required minimum distributions over his or her entire lifetime. The Act repeals this advantageous rule for deaths that occur on or after January 1, 2020. Now, in most cases, individual beneficiaries must completely withdraw all retirement benefits by the end of the tenth year following the year of the plan participant or IRA owner’s death (the “10-year rule”).

There are five types of individual beneficiaries who are wholly or partially exempt from the 10-year rule and granted “special status”: surviving spouses, minor children of the participant, disabled individuals, chronically ill individuals, and individuals not more than 10 years younger than the plan participant or IRA owner (*e.g.*, siblings). For a minor child, the 10-year rule does not take effect until the child reaches the age of majority. Surviving spouses and most other “special status” beneficiaries may continue to stretch required minimum distributions over their entire lifetimes. For children of the participant and all other beneficiaries, the Act will significantly accelerate their withdrawal of retirement benefits and in many cases increase the income taxes due on those withdrawals.

Under current and prior law, if the beneficiary of the retirement benefits is an estate or a trust (other than a “see-through trust”), all retirement benefits must be completely withdrawn by the end of the fifth year following the year of the plan participant or IRA owner’s death (the “5-year rule”).

An employer-sponsored qualified plan may have its own policies regarding the continued administration of plan benefits for beneficiaries in the event of the employee-participant’s death. Such policies may require withdrawal even sooner than what is required by law (but usually a rollover option is available).

If you or your spouse has a large qualified retirement plan or IRA or if your current estate plan includes provisions directing a retirement benefit to a trust for a beneficiary other than your spouse, we encourage you to review your beneficiary designations and estate plan in light of these changes.

Repeal of maximum age for traditional IRA contributions. Under prior law, an individual could not make a tax-deductible contribution to a traditional IRA for the year in which the individual reached age 70-1/2 or any later year. The Act repeals this prohibition. An individual may now make tax-deductible contributions to a traditional IRA regardless of age so long as he or she has compensation income.

Increase in age for taking required minimum distributions. Under prior law, an individual generally was required to begin taking required minimum distributions from his or her qualified plan or IRA on April 1 of the calendar year following the calendar year in which the individual reached age 70-1/2. The Act increases the applicable age from 70-1/2 to 72. This change is effective for individuals who had not reached the age of 70-1/2 on December 31, 2019 (*i.e.*, those born after June 30, 1949). This change also applies for the purpose of determining when a surviving spouse who is the beneficiary of a

deceased spouse's qualified plan or IRA must begin taking required minimum distributions. The Act left unchanged the rule allowing a participant (other than a 5% owner or IRA holder) to delay the start of distributions beyond age 72 until April 1 of the year after the year in which the participant retires.

In Closing

The Dorsey estate planning team is fully operational and stands ready to assist you. Please get in touch with us [here](#) if you would like to discuss any of the matters outlined above. In the meantime, please be safe and stay healthy!