The SECURE Act and Gift Planning

Date: February 11, 2020

Time: 1:00 – 2:00 Eastern

Presenter: Bill Laskin
Vice President, Product Management

Andrew Palmer
Director of Marketing Services

Agenda

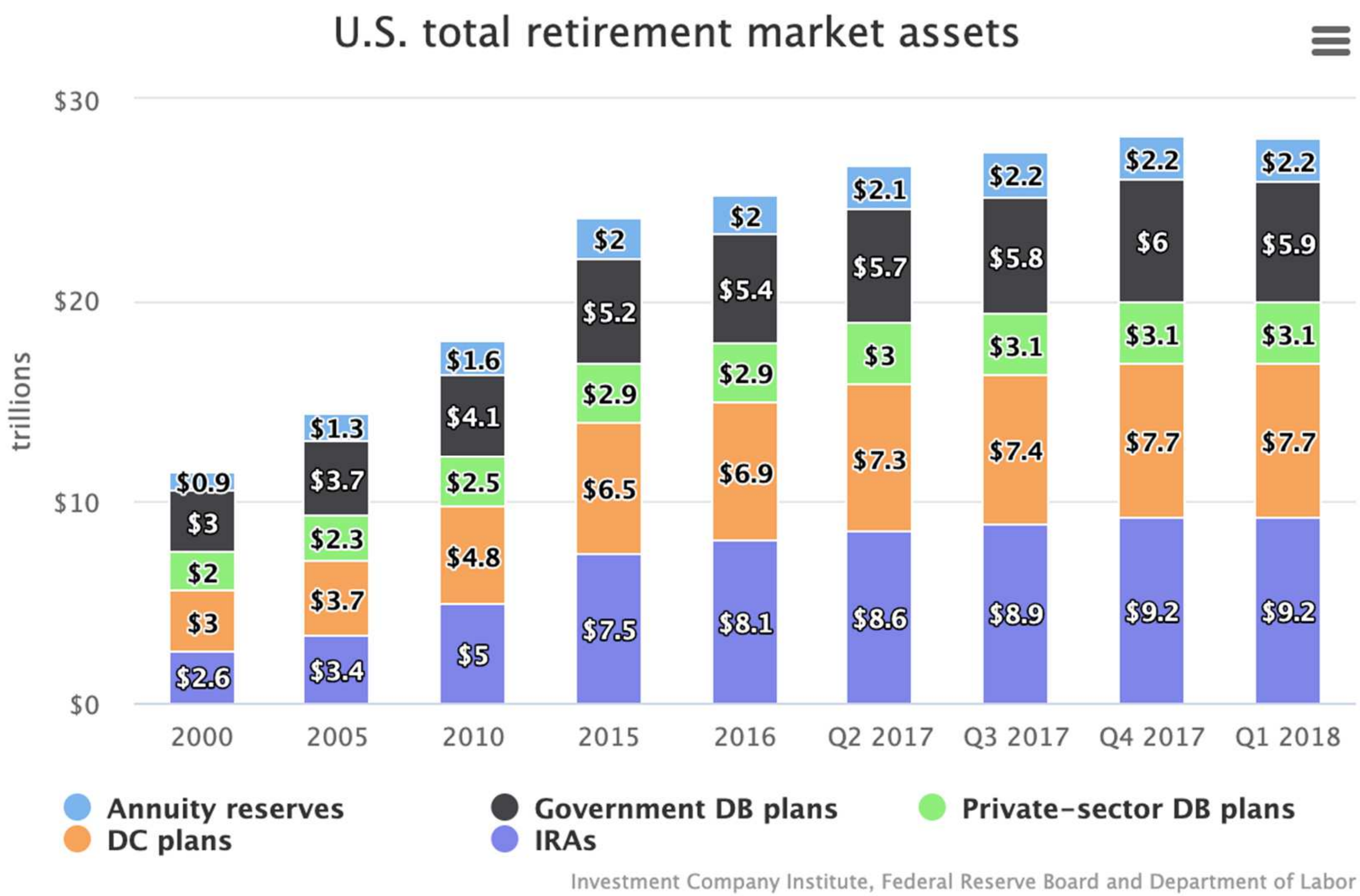
- Context of SECURE Act
- What hasn’t changed
- What has changed
- What might the changes mean for planned giving?
- Marketing suggestions

© 2020 PG Calc

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.

Context: Size of Retirement Plan Market



Context: Size of Retirement Plan Market

Amounts in Different IRAs in 2016 (in $1,000s)

- 85% in traditional IRAs

Type of plan	End-of-year fair market value of IRAs	
	Number of taxpayers	Amount
	(11)	(12)
Total [4]	**58,930,104**	**8,015,374,478**
Traditional IRA plans	46,696,787	6,824,024,063
SEP plans	3,174,866	382,370,762
SIMPLE plans	2,944,126	111,877,138
Roth IRA plans	19,878,993	697,102,516

Source: IRS Statistics of Income

Context: Size of Retirement Plan Market

- An estimated 46.4 million US households (36%) owned IRAs as of mid-2019.
- An estimated 36.1 million households owned traditional IRAs, making it the most common type of IRA.

Source: Investment Company Institute

© 2020 PG Calc

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

© 2020 PG Calc

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

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)

© 2020 PG Calc

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

© 2020 PG Calc

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

What HAS Changed?

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

What HAS Changed? "Stretch" IRA Rules

- Deceased's IRA can be rolled over to an "inherited IRA"
  - ✓ No tax due when rolled over; assets grow tax-free
  - ✓ Income tax due when beneficiaries make withdrawals
- "Stretch" IRA no longer available for many non-spouse beneficiaries
  - ✓ Previously, an IRA beneficiary could stretch RMDs over her life expectancy (assets in IRA continued to grow tax-free)
  - ✓ Same stretch rules applied to other defined contribution plans, such as 401(k)s, 403(b)s

© 2020 PG Calc

Calculation of RMD for IRA Owner Who is 80

Deadline for receiving required minimum distribution:

- Year you turn age 70 ½ - by April 1 of the following year
- All subsequent years - by December 31 of that year

1. **IRA balance[2] on December 31 of the previous year.** $1,000,000
2. **Distribution period from the table below for your age on your birthday this year.** 18.7
3. **Line 1 divided by number entered on line 2. This is your required minimum distribution for this year from this IRA.** $ 53,476
4. **Repeat steps 1 through 3 for each of your IRAs.**

Table III (Uniform Lifetime)

Age	Distribution Period	Age	Distribution Period	Age	Distribution Period	Age	Distribution Period
70	27.4	**82**	17.1	**94**	9.1	**106**	4.2
71	26.5	**83**	16.3	**95**	8.6	**107**	3.9
72	25.6	**84**	15.5	**96**	8.1	**108**	3.7
73	24.7	**85**	14.8	**97**	7.6	**109**	3.4
74	23.8	**86**	14.1	**98**	7.1	**110**	3.1
75	22.9	**87**	13.4	**99**	6.7	**111**	2.9
76	22.0	**88**	12.7	**100**	6.3	**112**	2.6
77	21.2	**89**	12.0	**101**	5.9	**113**	2.4
78	20.3	**90**	11.4	**102**	5.5	**114**	2.1
79	19.5	**91**	10.8	**103**	5.2	**115 and over**	1.9
80	18.7	**92**	10.2	**104**	4.9		
81	17.9	**93**	9.6	**105**	4.5		

Once you determine a separate required minimum distribution from each of your traditional IRAs, you can total these minimum amounts and take them from any one or more of your traditional IRAs.

What HAS Changed? "Stretch" IRA Rules

Calculation of RMD for beneficiary under old stretch rules:

- ✓ Inherits $1 million IRA at age 50
- ✓ RMD in first year is $1 million / 34.2 ($29,240)
- ✓ RMD next year is balance on last day of prior year / (34.2 – 1)
- ✓ RMD next year is balance on last day of prior year / (34.2 – 2), and so on . . .

- Stiff penalty if fail to take RMD: 50% excise tax on shortfall

Age	Life Exp.
48	36.0
49	35.1
50	34.2
51	33.3
52	32.3

© 2020 PG Calc

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

© 2020 PG Calc

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

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

What HAS Changed? "Stretch" IRA Rules

- However:
  - ✓ Requires charitable intent – no access to principal
  - ✓ Requires attorney (and attorney fees) to set up
  - ✓ Limited payment flexibility
  - ✓ Fixed term may be required
    - 10% deduction requirement
    - 5% probability test for CRATs
    - minimum age policies if charity acts as trustee
- Russell James article on LinkedIn – "4 Things Fundraisers Need to Know about the SECURE Act"

© 2020 PG Calc

What HAS Changed? "Stretch" IRA Rules

- What about testamentary CGA as a potential alternative to "stretch" IRA?
  - ✓ Fixed payments for lives of beneficiaries
  - ✓ No income tax when CGA funded
  - ✓ Income tax applied to annuity payments only
- However . . .
  - ✓ Requires substantial charitable intent
  - ✓ Beneficiaries may be younger than charity's minimum age
  - ✓ Fixed payments lose value as annuitants age

What HAS Changed? RMD Age Increased to 72

- Age at which retirement plan owner must start taking RMDs increased from 70½ to 72
  - ✓ Applies to owners who turn 70½ in 2020 or later (born on or after July 1, 1949)
  - ✓ Old rules apply to owners who turned 70½ before 2020: i.e, have an RMD in 2020 even if not yet 72
- QCD still a great gift between 70½ and 72, esp. if donor doesn’t itemize or can’t use all of deduction
- If donor delays withdrawals until 72, RMDs may be larger; an incentive to make larger QCDs thereafter

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

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.

© 2020 PG Calc

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

© 2020 PG Calc

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)

Marketing the SECURE Act

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

© 2020 PG Calc

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

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*

© 2020 PG Calc

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

© 2020 PG Calc

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 15th! More details to come.

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

© 2020 PG Calc

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

© 2020 PG Calc

Questions?

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

Still Have a Question?

Contact: Bill Laskin
Email: bill@pgcalc.com
Phone: 888-497-4970

Contact: Andrew Palmer
Email: apalmer@pgcalc.com
Phone: 888-497-4970

© 2020 PG Calc