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Could 2022 be An Important Year for Retirement Planning?

Situation: Clients might come away in a panic if they have been following the headlines in recent years on the question of America's retirement savings. The prediction of doom comes from several sources. First, according to the Social Security trustees, the Old-Age and Survivors Trust Fund is forecast to become insolvent by 2034, at which point continuing taxes are expected to be enough to cover only 78% of scheduled benefits. The Center for Retirement Research at Boston College estimates that more than half of working-age households are at risk of having inadequate retirement resources. The National Institute on Retirement Security goes further, claiming that at least 65% of workers are saving less than what is required to meet their retirement income needs. Unsurprisingly, most Americans believe that we face a retirement crisis.

The dire tales of crisis have not gone unnoticed in the halls of Congress. Bipartisan legislation (known as SECURE 2.0) designed to help shore up the employer retirement plan's leg to the "three-legged stool" stalled in 2021, but is expected to pass in 2022. In addition, The Treasury Department and the IRS updated the tables used to determine required minimum distributions (RMDs) to reflect current longer life expectancies. The new tables are effective for distribution calendar years beginning on or after January 1, 2022. Finally, Social Security solvency has long been an interest of Congress. While it is not clear whether Congress will have time this year to address Social Security, one proposal known as the Social Security 2100 Act: A Sacred Trust has nearly two hundred Democratic cosponsors and includes provisions, which may be embraced by Republican lawmakers. Thus, 2022 could be an important year for changes in retirement planning. This Counselor's Corner will provide a review of these changes and proposed changes.

Solution: A major theme of the retirement crisis story is that the private retirement saving system — which for most individuals means employer-sponsored 401(k) plans and individual retirement accounts — has been ineffective for large segments of the population and is becoming less effective as time passes. The shift by private employers from traditional defined-benefit plans to defined-contribution plans, moreover, has heightened criticisms of this segment of the retirement system.

To help address some of the perceived shortfalls on December 20, 2019, Congress passed the Setting Every Community Up for Retirement Enhancement Act (SECURE Act). In addition to making significant changes to the Required Minimum Distribution (RMD) rules, the legislation included provisions aimed at increasing access to employer retirement plans and preventing older Americans from outliving their retirement assets. Specifically, the legislation helps to increase access by:

- Making it easier for small businesses to set up 401(k)s by increasing the cap under which they can automatically enroll workers in "safe harbor" retirement plans from 10% of wages to 15%.
- Providing a maximum tax credit of $500 per year to employers who create a 401(k) or SIMPLE IRA plan with automatic enrollment.
- Enabling businesses to sign up part-time employees who work either 1,000 hours throughout the year or have three consecutive years with 500 hours of service.

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The legislation helps to prevent older Americans from outliving their assets by:

- Eliminating the age cut-off for making contributions to IRAs.
- Encouraging employers to include more annuities in 401(k) plans by removing their fear of legal liability.
- Pushing back the age at which retirement plan participants need to take required minimum distributions (RMDs) from 70½ to 72. The required beginning date is now April 1 of the calendar year following the latter of either (1) the calendar year in which the employee/IRA owner attains age 72, or (2) the year the employee retires (excluding IRAs or employees who own more than 5% of the company maintaining the plan). The increased age applies to those who would attain 70 ½ after December 31, 2019 - those born on or after July 1, 1949.

Example: If you are retired and your 70th birthday was June 30, 2019 (DOB 6/30/49), you reached age 70 ½ on December 30, 2019. You must take the first RMD for 2019 by April 1, 2020, and the second RMD for 2020 by December 31, 2020. In contrast, if you are retired and your 70th birthday was July 1, 2019 (DOB 7/1/49), you reached age 70 ½ on January 1, 2020. So, you do not take an RMD for 2019. You must take your first RMD when you turn 72 in 2021 by April 1, 2022, and your second distribution for the calendar year 2022 by December 31, 2022.

The SECURE 2.0 bill proposes the following additional changes in hopes to make retirement savings even more accessible and help Americans increase retirement savings:

- Require employers that offer defined-contribution plans to enroll eligible new employees automatically. Those employees would be enrolled at a contribution rate of 3%, like the way many 401(k) plans operate now. But the annual contribution level would automatically be increased by 1% each year, maxing out at 15% of employee pay unless employees choose a different contribution rate. This measure is designed to boost 401(k) plan participation rates and help workers increase retirement savings.
- Introduce another catch-up contribution limit just for people aged 62 to 64. The limit, which would take effect in 2023, would allow those individuals to add another $10,000 in catch-up contributions to their 401(k)s each year. The Act would also make all catch-up contributions subject to Roth guidelines for tax purposes.
- Push RMDs back to age 73 beginning in 2022, then age 74 in 2029, and beginning in 2032, age 75.
- Allow employers to make matching contributions to 401(k) plans based on employees' student loan payments. The contributions would be subject to the same vesting requirements as other matching contributions.

In addition to the recent legislation and proposed changes to retirement plans under the two SECURE Acts, the Treasury recently updated the tables in the required minimum distribution regulations in Section 1.401(a)(9)-9 to reflect longer life expectancies. The new tables, which are included at the end of this article, provide larger factors that produce smaller RMDs. This allows retirees to retain more retirement savings in their account for later years. The new tables are effective for distribution calendar years beginning on or after January 1, 2022. For many taxpayers, the switch will be simple. Consider the following:

Example: Assume an individual born on July 1, 1950, has a qualified plan balance of $1 million on 12/31/2021. The individual turns 72 in 2022. Since the first calendar distribution year is 2022 the year the individual turns 72 the new distribution tables can be used providing a factor of 27.4 and resulting in an RMD of $36,496 ($1 million divided by 27.4). This first distribution can be delayed to April 1, 2023. The old table would have resulted in a distribution of $39,063 ($1 million divided by 25.6), $2,567 more than the new table amount.

For other taxpayers the distribution will be a little more complex. Consider the following:

Example: In contrast, assume an individual born on July 1, 1949, has a qualified plan balance of $1 million on 12/31/2020. Since the individual reached 70 ½ in 2020 he can delay distributions to age 72 in 2021. Since the first calendar distribution year is 2021 the old distribution tables apply. Whether he takes the distribution in 2021 or waits to take the first distribution by April 1, 2022, this distribution will be based on the old table factor of 25.6 and equals $39,063. However, the 2022 calendar year distribution which must occur by December 31, 2022, will be based on the 12/31/2021 plan balance and the new tables.

Also, the process is more complex for individuals who inherited accounts from employees/IRA owners who died prior to 2022. The regulations include a transition rule for employees/IRA owners who died prior to 2022. Under the transition rule, the initial life expectancy used to determine the distribution period is reset by using the new Single Life Table in regulations. This is a one-time reset and applies in the following situations:

- Where the beneficiary is a non-spousal eligible beneficiary.
- Where the employee/IRA owner died after the RMD and is younger than the designated beneficiary.
- Where the employee/IRA owner died after the RMD without a designated beneficiary.

Died with a Nonspousal Eligible Designated Beneficiary Either Before or After Required Beginning Date (RBD). In general, the SECURE Act provides employees/IRA owners who die after December 31, 2019, may use the stretch life expectancy distribution only where the beneficiary is an "eligible designated beneficiary." Other beneficiaries must distribute the entire interest in the account under the new 10-year rule. Eligible designated beneficiaries include:

- Surviving spouse.
- Child of the employee/IRA owner who has not reached the age of majority.
- Disabled beneficiary (within the meaning of Section 72(m)(7)).
- Chronically ill beneficiary (within the meaning of Section 7702B(c)(2)).
- Individual who is not more than 10 years younger than the employee/IRA owner.

However, for employees/IRA owners who died before January 1, 2020, the SECURE Act treats all designated beneficiaries as eligible designated beneficiaries so they can continue to calculate their RMDs using their own life expectancy factor. However, once the original designated beneficiary dies, the successor beneficiary must distribute the account balance under the new 10-year rule.

In general, in the year following the death of the employee/IRA owner the designated beneficiary can calculate the RMD using the designated beneficiary's life expectancy from the Single Life Table. The designated beneficiary's life expectancy is measured using the beneficiary's age as the beneficiary's birthday in the calendar year immediately following the calendar year in which the employee/IRA owner died. In subsequent years the applicable life expectancy factor is reduced by one for each calendar year that has elapsed. The new regulations require a one-time reset to the initial life expectancy factor reduced by 1 for each subsequent year. This is better understood with an example.

Example: Assume an employee born on June 30, 1945, passed away in December 2019 at the age of 74, leaving his $1 million account to his daughter, who in 2020, is age 33. Under the old Single Life Table, the beneficiary's distribution factor in 2020 would be 50.4 which would result in a distribution of $19,841 ($1 million divided by 50.4). In subsequent years the life expectancy factor would be reduced by 1 – so in 2021 the factor would be 49.4. Under the updated Single Life Tables for a 33-year-old is 52.5. For distribution in 2022, the beneficiary will take the new initial factor of 52.5 and reduce it by the two calendar years (2021 and 2022) that will lapse after 2020. The life expectancy factors would adjust to 50.5 for the 2022 distribution.

Died after the RBD and is Younger than the Designated Beneficiary. If an employee/IRA owner dies after the required beginning date, the designated beneficiary's distribution period is the longer of; (1) the life expectancy of the designated beneficiary, or (2) the life expectancy of the employee/IRA owner. If an employee/IRA owner left the account to a beneficiary who was older, the younger participant's life expectancy can be used. Under the regulations, this will require a reset as well.

Died after the RBD without a Designated Beneficiary. When an employee/IRA owner dies after the required beginning date and there is no designated beneficiary in the year of the participant's death, the RMD is based on the participant's age in year of death using the factor from the Uniform Lifetime Table. In succeeding years, the distribution period is over the deceased employee's life expectancy using the Single Life Table measured using the individual's birthday in the year of death. In subsequent years, the applicable distribution period is reduced by one for each calendar year that has elapsed after the calendar year of the individual's death. This will require a one-time reset as well.

A similar transition rule applies if an employee's sole beneficiary is the employee's spouse. Under the transition rules where the participant died before 2022, leaving the account to the surviving spouse, the distribution period that applies to the surviving spouse is equal to the Single Life Table for the age of the spouse in the calendar year of the employee spouse's death and reducing that initial life expectancy factor by 1 for each year subsequent to the year for which it was initially set.

Finally, policymakers have put forth numerous proposals to balance Social Security's finances and achieve other objectives. Such proposals typically include a combination of revenue increases and benefit adjustments. In the past, some proposals would have established a personal account component to the Social Security system to supplement or replace traditional Social Security benefits. Some of the more commonly discussed proposals include: increasing the amount of covered earnings subject to the payroll tax (the taxable wage base), increasing the payroll tax rate, raising the retirement age, modifying the benefit formula, and changing the annual cost-of-living adjustment (COLA) calculation. The most recently introduced bill, The Social Security 2100 Act: A Sacred Trust, introduces several reforms in an effort to keep the program running a little longer. Many of the proposals are effective only through the calendar year 2026. Some of the key proposals include:

- Uses a new formula to calculate the annual cost of living increases to Social Security benefits, from the current one which measures inflation for the population at large (called CPI-W) to another formula which measures inflation for the elderly population specifically (called CPI-E).
- Increase the primary insurance amount (PIA) from 90% to 93% for all wage earners and increase the minimum Social Security benefit for long-term, low-wage earners.
- Increases benefits after 15 years of eligibility and benefits for surviving widows and widowers in two-income households.
- Extends the child's benefit for a post-secondary school student to age 26.
- Raise the income threshold at which one's Social Security benefits start getting taxed, from the current $25,000 to $35,000 for an individual, and from the current $32,000 to $50,000 for a couple filing jointly.
- Collect payroll taxes for earning over $400,000 (from the current maximum of $147,000) in the Social Security formula to help pay for Social Security.
- Provide credit to individuals serving as caregivers of chronically dependent relatives with deemed wages for up to 5 years of service.
- It also repeals the Windfall Elimination Provision (WEP) and Government Pension Offset (GPO) that deprive people in public service of Social Security benefits.

This new version of the legislation reflects two maxims of the current political climate: 1) no tax increases for those earning less than $400,000; and 2) temporary programs will generate impetus for making them permanent.

In Conclusion. With mid-term elections around the corner and the desire to enact some of the provisions to the Build Back Better bill, it is likely that only bipartisan retirement legislation will pass this year. Consequently, we are likely to see progress with SECURE 2.0, but Social Security may wait for another year. The big change for many retirees will be the need to adjust the required minimum distribution to comply with the new tables.

Pre 2022 Single Life Table
(For Use by Beneficiaries)

Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy
0	82.4	22	61.1	44	39.8	66	20.2	87	6.7	109	1.2
1	81.6	23	60.1	45	38.8	67	19.4	88	6.3	110	1.1
2	80.6	24	59.1	46	37.9	68	18.6	89	5.9	111	1
3	79.7	25	58.2	47	37.0	69	17.8	90	5.5		
4	78.7	26	57.2	48	36.0	70	17.0	91	5.2		
5	77.7	27	56.2	49	35.1	71	16.3	92	4.9		
6	76.7	28	55.3	50	34.2	72	15.5	93	4.6		
7	75.8	29	54.3	51	33.3	73	14.8	94	4.3		
8	74.8	30	53.3	52	32.3	74	14.1	95	4.1		
9	73.8	31	52.4	53	31.4	75	13.4	96	3.8		
10	72.8	32	51.4	54	30.5	76	12.7	97	3.6		
11	71.8	33	50.4	55	29.6	77	12.1	98	3.4		
12	70.8	34	49.4	56	28.7	78	11.4	99	3.1		
13	69.9	35	48.5	57	27.9	79	10.8	100	2.9		
14	68.9	36	47.5	58	27	80	10.2	101	2.7		
15	67.9	37	46.5	59	26.1	81	9.7	102	2.5		
16	66.9	38	45.6	60	25.2	82	9.1	103	2.3		
17	66.0	39	44.6	61	24.4	83	8.6	104	2.1		
18	65.0	40	43.6	62	23.5	84	8.1	105	1.9		
19	64.0	41	42.7	63	22.7	85	7.6	106	1.7		
20	63.0	42	41.7	64	21.8	86	7.1	107	1.5		
21	62.1	43	40.7	65	21.0			108	1.4		

Revised Single Life Table Effective for Distribution Starting 2022
(For Use by Beneficiaries)

Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy
0	84.5	22	63.1	44	41.9	66	22			109	2
1	83.7	23	62.1	45	41.0	67	21.1	88	6.6	110	2
2	82.8	24	61.1	46	40.0	68	20.4	89	6.1	111	2
3	81.8	25	60.2	47	39.0	69	19.6	90	5.7	112	2
4	80.8	26	59.2	48	38.1	70	18.8	91	5.3	113	1.9
5	79.8	27	58.2	49	37.1	71	18.0	92	4.9	114	1.9
6	78.8	28	57.3	50	36.2	72	17.2	93	4.6	115	1.8
7	77.9	29	56.3	51	35.3	73	16.4	94	4.3	116	1.8
8	76.9	30	55.3	52	34.3	74	15.6	95	4.0	117	1.6
9	75.9	31	54.4	53	33.4	75	14.8	96	3.7	118	1.4
10	74.9	32	53.4	54	32.5	76	14.1	97	3.4	119	1.1
11	73.9	33	52.5	55	31.6	77	13.3	98	3.2	120+	1
12	72.9	34	51.5	56	30.6	78	12.6	99	3		
13	71.9	35	50.5	57	29.8	79	11.9	100	2.8		
14	70.9	36	49.6	58	28.9	80	11.2	101	2.6		
15	69.9	37	48.6	59	28.0	81	10.5	102	2.5		
16	69.0	38	47.7	60	27.1	82	9.9	103	2.3		
17	68.0	39	46.7	61	26.2	83	9.3	104	2.2		
18	67.0	40	45.7	62	25.4	84	8.7	105	2.1		
19	66.0	41	44.8	63	24.5	85	8.1	106	2.1		
20	65.0	42	43.8	64	23.7	86	7.6	107	2.1		
21	64.1	43	42.9	65	22.9	87	7.1	108	2		

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Uniform Lifetime Table

The table that follows is used to calculate lifetime minimum required distributions. For owner/participants with a spouse more than 10 years younger who have named their spouse as beneficiary, a different table (Joint and Survivor Table VI, set forth in Treas. Reg. §1.401(a)(9)-9) may be used instead.

Pre 2022 Uniform Lifetime Table

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

Uniform Lifetime Table Effective for Distributions Starting 2022

Age	Distribution Period	Age	Distribution Period
70	N/A	96	8.4
71	N/A	97	7.8
72	**27.4**	98	7.3
73	26.5	99	6.8
74	25.5	100	6.4
75	24.6	101	6.0
76	23.7	102	5.6
77	22.9	103	5.2
78	22.0	104	4.9
79	21.1	105	4.6
80	20.2	106	4.3
81	19.4	107	4.1
82	18.5	108	3.9
83	17.7	109	3.7
84	16.8	110	3.5
85	16.0	111	3.4
86	15.2	112	3.3
87	14.4	113	3.1
88	13.7	114	3.0
89	12.9	115	2.9
90	12.2	116	2.8
91	11.5	117	2.7
92	10.8	118	2.5
93	10.1	119	2.3
94	9.5	120+	2.0
95	8.9		