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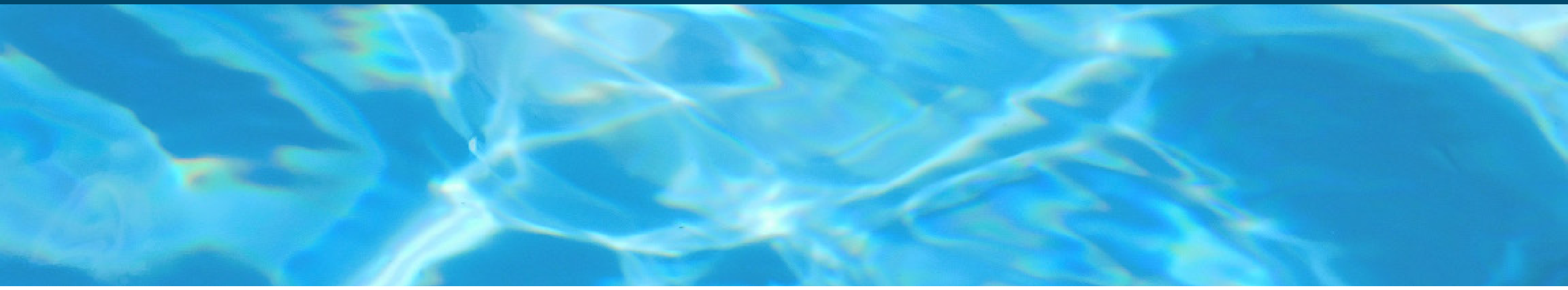

Stretch Demise Mandates Beneficiary Review

With the passage of SECURE 2.0 and the opportunities it provides, financial professionals are reminded of the changes made in the original Act. In addition to making other changes to retirement plans and IRAs, SECURE 1.0 changed the rules on distributions for deaths occurring after December 31, 2019.

Stretch Distribution Over Beneficiary's Life Eliminated.

Under the old rules, with proper planning the life expectancy of the beneficiary could generally be utilized to determine the minimum annual distribution requirement (RMD). For example, if the beneficiary of an IRA is age 50 under the old rule distributions could be taken out over 34.2 years. This distribution option was referred to as "stretch."

> The Secure 1.0 eliminated the stretch option for all but five classes of so called "eligible designated beneficiaries." Eligible designated beneficiaries who can still receive stretch distributions include surviving spouse, children of the plan/IRA owner who have not reached 21, disabled/chronically ill individuals, and beneficiaries that are not more than 10 years younger than the plan/IRA owner.

For all other "designated beneficiaries," the stretch rules are replaced with a rule requiring that all distributions from defined contribution retirement plans and IRAs be distributed in its entirety by the end of the tenth (10^{th}) year following the year of death of the owner. Technically, the annual RMD is replaced with an RMD that occurs 10 years following the year of the participant's death. This distribution is referred to as the 10-Year Rule. **Considering the new distribution requirements, it is imperative that your clients have all their beneficiary designations reviewed.**

Situations Where Designated Beneficiary May Need Revision.

The new distribution rules may totally disrupt the distribution plans of your clients. **Even the surviving spouse, who is the most frequently used beneficiary, may require reconsideration.**

When a surviving spouse is the designated beneficiary, s/he qualifies as an eligible beneficiary and can stretch distributions over life expectancy. However, on the death of the spouse where the beneficiary is an adult child or adult children, distributions will need to completed within 10 years. It should be noted that the Proposed Regulations to Secure 1.0 provides multiple 10-Year Rules depending on the beneficiary. When a beneficiary is a minor child the child can stretch distributions until age 21, but then must take the remaining balance before age 31 (within 10-years).

Situations Where Designated Beneficiary Is A Trust.

Many clients have trusts in place for distributions to children. When a trust is named as the beneficiary, the determination of who is a counted beneficiary was challenging. However, the Proposed Regulations make significant strides in simplifying the determination of who the counted beneficiaries are when a trust is a beneficiary. Under the proposed regulations there are two types of See-Through Trusts: Conduit Trusts and Accumulation Trusts. A Conduit Trust is one where the terms of the trust provide that all plan benefits will be distributed to specified beneficiaries upon receipt by the trustee. Under this form of trust only the trust beneficiaries whose interest is neither contingent upon, nor delayed until the death of another trust beneficiary, count as participant's beneficiaries (whether eligible designated beneficiary, non-eligible designated beneficiary or not a designated beneficiary will be based on the identity of only these beneficiaries). An Accumulation Trust is one that is not a conduit trust. Under this trust form both the primary beneficiary who could receive benefits from the participant as well as second tier potential beneficiaries (i.e., those who could receive benefits after the death of a primary) are counted as participant's beneficiaries. As a general rule, if a trust has a designated beneficiary that is NOT an eligible designated beneficary, then the participant is treated as not having an eligible designated beneficiary and the account must be distributed no later than the end of the tenth year following the calendar year of the participant's death. However, as previously mentioned, the Proposed Regulations introduced an exception to this rule if there is a beneficiary who is a child under the age of 21 or is a specific form of trust for the benefit of disabled or chronically ill individual, then the beneficiary can qualify as an eligible designated beneficiary.

For example, a participant names an Accumulation Trust as the sole beneficiary of the employee's interest in the plan, and the trust beneficiaries are the employee's surviving spouse and the employee's adult child who is NOT disabled or chronically ill, then the employee is treated as NOT having an eligible designated beneficiary. As a result, the employee's entire interest must be distributed no later than 10 years after the employee's death. However, if there is another designated beneficiary who is the employee's child and who, as of the date of the employee's death, has not yet reached the age of majority, then the employee is treated as having an eligible designated beneficiary. In this situation the trust can use the life expectancy rule until the child reaches age 21, then the 10-Year Rule kicks in and a full distribution from the plan would be required by the time the child reaches 31.

How Can DBS Help?

Suffice it to say, everyone should revisit their beneficiary designations to make sure the distribution still makes sense. Some beneficiary designations will not require any change even though the new law will require accelerated distributions. Because the 10-Year Rule replaces the stretch rules in many cases, distributions will need to be made more rapidly than previously anticipated and the associated income tax will need to be paid when distributed. Acknowledging and planning for this is still necessary, even if no changes are made to the beneficiary designations. It may be appropriate for your clients to purchase life insurance to help deal with the accelerated income taxes.

Contact Terri Getman, DBS's in-house advanced case design resource at extension 230 for an illustration of how the 10-year rule may impact your clients.