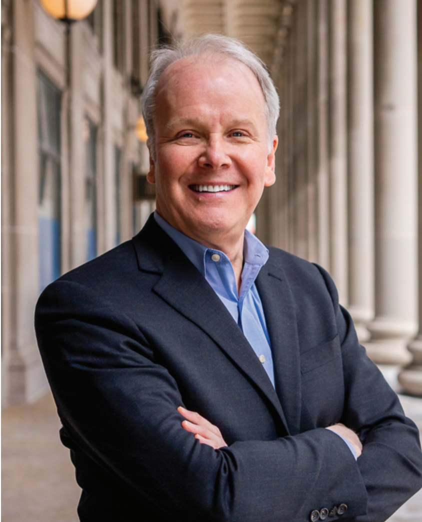

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What Can the SECURE Act Do for You?

Legislation aimed at revving up retirement savings in America offers new opportunities for employers, employees, and advisors alike.

By now you should be familiar with Illinois Secure Choice, the employer-sponsored retirement plan Illinois employers of 25 or more employees must offer if they do not offer employees another qualified retirement plan. I suggested the Illinois law could provide meaningful retirement savings for many Illinois workers in my summer 2019 column, "Can Secure Choice Secure Illinoisans' Retirements?" Now, Congress is busy debating federal legislation to tackle America's savings and retirement crises.

Enter the SECURE (Setting Every Community Up for Retirement Enhancement) Act, which aims to simplify the provisions to establish and administer employer-sponsored retirement plans. In essence, the Act will encourage more businesses and business owners to offer retirement plans which, in turn, should encourage more workers to participate in securing their own retirements. The Act received strong support earlier this year, passing in the House by a margin of 417 to 3 in May. As passage of the Act in the Senate seems likely, albeit delayed, let's look at some of the important aspects.

FOR EMPLOYERS

The provisions of the SECURE Act continue a trend the federal government began well over 20 years ago: reduce the employer's administrative and fiduciary burden of providing a retirement plan to employees. If more employers offer such plans, and more employees participate in those plans, then the end goal of ensuring U.S. workers grow their retirement assets over and above their Social Security benefits or their public service sector pensions is more likely to be met.

To start, the Act provides for "open" multi-employer 401(k) plans, meaning unrelated small employers could participate in a single 401(k) plan. This would theoretically drive down the administrative and operating expenses of the plan while providing employers with a more affordable alternative to establishing their own 401(k) plans. (Currently, only "closed" multi-employer plans are permitted, which are plans made up of two or more businesses in one industry or established trade association.)

Further, the Act provides two $500 maximum annual tax credits (a plan start-up credit and an ongoing credit for as long as three years) to employers who establish either a 401(k) plan or a SIMPLE IRA with automatic enrollments. The Act also simplifies the rules related to qualified nonelective contributions in safe harbor 401(k) plans (i.e., employer contributions of 3 percent or more of an eligible employee's compensation regardless of whether the employee contributes to the plan).

Lastly, the Act reduces the liabilities of employer plan sponsors who include annuities as investment options in their plans in the event the insurer fails to meet its financial obligations, including payouts to plan participants currently receiving benefits.

FOR EMPLOYEES

The requirement that a worker needs to have 1,000 hours of service in order to participate in a defined contribution plan has been modified to be three consecutive years with 500 or more hours of service. The Act also permits employees who participate in automatic enrollment safe harbor plans to increase their contribution rate from the current maximum of 10 percent of pay to 15 percent of pay if their employers permit it.

FOR EVERYONE

The Act also affects all participants in qualified retirement plans and IRA-type accounts. First, the Act increases the age for mandatory withdrawals (required minimum distributions) to 72 to reflect the longer life expectancies of workers. Second, the Act removes the maximum age limit under which a worker can contribute to an IRA. Next, the Act expands the permitted use of Section 529 plan account balances to include student loan repayments of up to $10,000 per year. The Act also expands the permission of penalty-free IRA withdrawals to allow withdrawing up to $5,000 to cover qualified birth and adoption expenses. Finally, the Act requires that IRAs inherited by non-spouses be paid out over no more than a 10-year period, subject to certain exceptions.

These provisions reflect a balance of sound retirement policy and real-world practicalities. By delaying the first required minimum distribution age by 18 months, retirement plan account balances are estimated to grow 5 percent or more. Lifting the age cap on IRA contributions is also sound retirement policy, as it means workers aged 70½ and older will be able to continue contributing to an IRA. And, allowing participants to access their funds prior to retirement in emergency and other certain scenarios should help encourage participation.

WHAT'S NEXT

As with any potential legislation, the SECURE Act has winners and losers. Among the winners are small employers who wish to offer employees some form of work retirement savings plan but have not done so because of high start-up and administrative costs. Other winners include older workers in our economy for whom an age 70½ required minimum distribution commencement is unnecessary and costly. Losers might include IRA owners who withdraw funds early for legitimate purposes but find out down the road that the easier access to funds has adversely affected their retirement living standards. Non-spouse inheritors of IRAs also could be hurt if they are forced to withdraw funds at a faster clip to comply with the Act's 10-year payout limitation.

Unfortunately, the biggest losers are potentially advisors like us. While the Act sits in limbo in the Senate, employers and employees are left to ponder whether it will become law in 2019, 2020, or ever, which could put their financial and tax planning questions on hold until there's a resolution or immediate need. Don't let this be a lost opportunity to bring value to your clients. Be proactive and bring forward strategic ideas and new insights that can better their financial lives. When we show our clients that we're invested in helping them achieve their financial goals, we become not only their trusted advisors but also their valued advisors.

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