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Pending Federal Legislation Will Likely Impact Inherited Retirement Accounts

Congress is working on a new bill that will have some negative effects on beneficiaries of retirement accounts, such as 401k's and IRA's. The House Bill has already passed (H.R.1994) and the Senate Bill is expected by many to pass soon. Although there are some differences between the House and Senate bills, both legislative bodies have stated that passage of this type of bill is a high priority. Thus, most analysts see this happening some time fairly soon.

There are some good provisions in the bill, such as allowing small businesses to expand retirement programs to employees and for workers to be able to contribute to a retirement account at any time, even past age 70 1/2. Additionally, the age for beginning mandatory withdrawals from a retirement account is likely to be extended from age 70 1/2 to age 72.

Now the downside - To pay for the enhancements to allow workers to put away more money before fully retiring, the proposed bills will require beneficiaries of inherited retirement accounts to withdraw **all** of the money in the retirement accounts by the end of the **tenth** year after the original owner's death, thus eliminating the "stretch out" of taxable payments over younger beneficiaries' lives. This provision will **not** apply to a spouse who inherits a deceased spouse's account. Additionally, there are a few other exceptions for underaged children and perhaps other beneficiaries with disabilities. But, for the most part all those adult children of parents who pass away owning sizeable IRA's and 401k's will wind up paying much more income tax on retirement accounts than exists under current law ~ Congress' \$15.7 billion expectation.

Example - Fred has an IRA worth \$500,000 when he dies. Mary, his spouse, inherits the account - no problem. Mary continues to take out her minimum distribution based upon her life expectancy as normal. Two years later Mary dies and her two children Joe and Susie inherit the account, which because it was well-invested, is still worth \$500,000. Joe and Susie are both in their early 50's, have good paying jobs and are married to spouses who also have

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**Free
Workshops**

September 10, 2019

Gildner & Associates
Wealth Management

Wellsville, NY

6:30 to 8:30 p.m.

September 24, 2019

Manning's Fireside Manor

Dunkirk, NY

6:30 to 8:30 p.m.

September 26, 2019

Special Seminar

Gowanda Community
Bank, N.A.

Gowanda, NY

6:30 to 8:30 p.m.

good paying jobs. Under the new law, if passed, by the time Joe and Susie are in their early 60's, each will have to empty their \$250,000 (plus earnings) inherited IRA accounts... and pay income taxes on every single dollar!

Some ok news ~ Joe and Susie will have the option to take out whatever amount they want each year, or wait until the tenth year and take one distribution of the whole account.

Contrast with current law ~ As it stands now under current law, if Joe and Susie inherit their share of Mary's IRA, each would only have to withdraw a minimum distribution each year based upon their own life expectancy! The IRS table for this purpose gives a 55 year old a life expectancy of 29.6 years. That extra 19.6 years would allow Joe and Susie to grow the account even more for their own retirements, or possibly leave more money to their children when they pass away.

New Strategies - If the Secure Act passes and the President signs it into law, then planners will be busy coming up with alternative techniques to salvage as much benefit to family members as is possible. We at Brooks & Brooks, LLP will keep monitoring the situation and work with our colleagues to develop alternative planning techniques that will help mitigate the increased tax that middle class beneficiaries will undoubtedly be faced with in the future.

Transfer On Death (TOD)/Pay On Death (POD) Issues

A recent case we are involved with demonstrates potential problems with relying on TOD/POD's as part of the estate planning process.

The decedent had a trust and Will, but also sought to list specific beneficiaries on several investment accounts. Despite his efforts, he didn't wind up accomplishing all his desires. Some of the TOD accounts went well, others not so well.

One TOD account beneficiary designation failed completely because the investment company would not accept what he submitted and he did not get that issue resolved before he died. That failure meant some beneficiaries lost out on approximately \$138,000. On a second account, the decedent misidentified the intended beneficiaries' names, using their mother's last name instead of the beneficiaries' real last names (mother had remarried). Further, he did not identify their addresses and failed to fill in their social security numbers to complete the TOD form. Since the investment company could not properly verify the identity of the intended beneficiaries, it determined the TOD designation to be completely void. Now the \$80,000 account is owned by the decedent's probate estate and will be distributed to different people ~ two people lost out on \$40,000 each!

Do we at Brooks & Brooks dislike TOD/POD's? Not really. However, we use them to direct assets to, rather than away from, trusts. It is much easier to change the beneficiaries of a trust, in one document, rather than to locate several different financial institutions' forms and complete and send them to the companies!

Understanding Engineers:

To the optimist, the glass is half-full.
To the pessimist, the glass is half-empty.
To the engineer, the glass is twice as big as it needs to be.