ESTATE PLANNING FOR IRA:
SECURE ACT AND INHERITED IRA'S

The media reports that the boomer generation will begin to receive an estimated transfer of wealth estimated to be trillions of dollars. Much of this wealth is probably going to be transferred from inherited IRA's. The rules are also different when inheriting an IRA from a spouse as opposed from inheriting an IRA from someone who is not your spouse (parent, sibling, etc.). A new law known as the SECURE ACT may affect distributions from some inherited IRA's effective as of January 1, 2020 and which was amended in parts in by the Consolidated Appropriations Act of 2023.

The SECURE ACT does not affect a traditional IRA inherited from your deceased spouse and it still may be rolled over into a new IRA or an IRA the surviving spouse has already established. The surviving spouse will be able to name beneficiaries of the rolled over IRA. The annual required minimum distribution (or RMD) was raised by the SECURE ACT and the RMD will not have to be withdrawn until April 1 of the year following the year the surviving spouse turns 73.

A traditional IRA inherited from someone who is not your spouse may not be rolled over into a new IRA or to an IRA that has already been established. As of January 1, 2020, under the SECURE ACT, the inherited IRA must be fully distributed to the non spouse beneficiary no later than December 31 during the year containing the tenth (10th) anniversary of the original IRA owner's death. Final regulations from the IRS are expected, but it appears that if the decedent owner had reached the required beginning date to begin taking required minimum distributions prior to death, then minimum distributions will be required to be taken by the beneficiary during the ten (10) year period after death. It also appears that no distributions from the inherited IRA are required to be made prior to the ten (10) year expiration date if the decedent IRA owner had not reached the required beginning date to take required minimum distributions. This effectively eliminates the Stretch IRA concept in which non spouse beneficiaries were able to withdrawal required minimum distributions from an inherited IRA during their lifetime. If you inherited an IRA from someone who was not your spouse prior to January 1, 2020, the lifetime required minimum distribution rules are grandfathered and can still be used by the beneficiary. There are other exceptions to the ten (10) year distribution rule, and these include disabled and chronically ill beneficiaries, as well as minor children until they reach the age of majority (at which time the ten (10) year distribution rule begins).

Because of the change in the distribution rules, some clients may consider to fund charitable bequests from IRA's, or, create and modify existing trusts to lengthen the time period for managing IRA funds for designated beneficiaries.

Distributions from an inherited Roth IRA will generally not be taxable by the inheritor if the original Roth IRA had been funded for at least five years (whether you are a spouse or non-spouse beneficiary). Roth IRA's have similar methods of distribution as the traditional IRA. The inheritor will choose the method of distribution based upon how quickly they need funds from the Roth IRA.