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Tax Newsletter

Introduction to Secure Act 2.0
Key provisions in new law

First, Congress approved the Setting Every Community Up for Retirement Enhancement (SECURE) Act in 2019, affecting qualified retirement plans and IRAs. Now the president has signed into law "SECURE Act 2.0" as part of a spending measure. Following are several key provisions in this new legislation.

- RMD age threshold: Generally, participants in qualified plans and IRAs must take required minimum distributions (RMDs) after reaching age 72 (raised from 70½ by the first SECURE Act). The new law raises the threshold to age 73 beginning in 2023. In 2033, it will increase to age 75.

- RMD penalty: Previously, the penalty for failing to take an RMD was equal to 50% of the required amount. The new law drops it to 25%, effective for tax years beginning after the date of enactment. The penalty is further reduced to 10% if the error is corrected in a timely fashion.

- Emergency distributions: Beginning in 2024, you can take emergency distributions from a retirement account to cover unforeseen or immediate financial needs without incurring the usual 10% early withdrawal penalty. The amount is limited to $1,000 a year. If you do not repay the distribution within a certain time, you cannot take another emergency distribution for three years.

- Catch-up contributions: Currently, you can make catch-up contributions to 401(k) and certain other qualified plans, subject to an annual limit, if you are age 50 or older. Beginning in 2025, the new law increases the limit from $7,500 to the greater of $10,000 or 50% more than the regular catch-up amount for someone between age 60 and 63. After 2025, these amounts will be indexed for inflation. (Other changes apply to catch-up contributions for IRAs and SIMPLE plans.)

- Roth catch-up contributions: Beginning in 2024, catch-up contributions to employer retirement plans must be made to Roth-type accounts for certain employees. These contributions are made with post-tax dollars that may be withdrawn tax-free in retirement. The new requirement applies to employees with compensation above $145,000 (indeed for inflation). Also, RMDs will not be required for these employer plan accounts, beginning in 2024.

- Automatic enrollment: To encourage greater participation in 401(k) and 403(b) plans, a business or nonprofit entity will be required to provide automatic enrollment to eligible employees. Employees could then choose to opt out. This provision will apply to new plans adopted after 2024 with certain limited exceptions.

- Retirement saver's match: Beginning in 2027, SECURE Act 2.0 replaces the retirement saver's credit with a "matching" contribution by the government to your qualified plan or IRA. The match will equal 50% of the amount contributed to your retirement account, up to $2,000 per individual. However, certain income limits and a phase-out rule will apply.

- Student loan match: Under the new law, your employer may elect to make a matching contribution to your retirement plan account based on your student loan obligations, beginning in 2024. This creates an incentive for student loan debtors to save for retirement.

- Qualified charitable distributions: An individual age 70½ or older can transfer up to $100,000 directly from an IRA to a charity tax-free. Beginning in 2023, you may elect as part of this qualified charitable distribution (QCD) a one-time gift up to $50,000 to a charitable remainder trust or charitable gift annuity. This amount will be adjusted for inflation.

- Section 529 rollovers: Funds remaining in a Section 529 account for higher education expenses may be rolled over into a Roth IRA, up to a lifetime cap of $35,000, without any tax or penalty. However, the 529 account must have been open for at least 15 years. This provision takes effect in 2024.

- Plan start-up credit: Under the first SECURE Act, a business with 100 or fewer employees could claim a tax credit for three years for 50% of the cost of starting up a qualified retirement plan, up to $5,000 (increased from $500). Beginning in 2023, employers with 50 or fewer employees can qualify for a credit equal to 100% of the cost, up to $1,000, subject to phase-outs.

- Retirement database: Finally, the new law creates a veritable "lost and found" database where you can search for retirement plan assets you have lost track of. The government has two years from the date of enactment to complete this task.

Reminder: This brief article only covers some of the highlights of SECURE Act 2.0. We will provide additional insights throughout the year.

IRS Maps Out New Per Diem Rates
Approved shortcut for business travel

The IRS often pays close attention to deductions claimed for business travel expenses. Both employers and employees must meet strict recordkeeping requirements or face the consequences. Fortunately, however, you can obtain some relief by using IRS-approved per diem allowances in lieu of accounting for every expense.

The per diems are actually the allowances approved for travel by U.S. government employees, but they can be used by regular business operations. These per diem rates were recently updated for the government's fiscal year 2023 (FY2023) spanning October 1, 2022 through September 30, 2023. Thus, the new rates took effect at the end of last year.

Background: As long as employees properly account for their business travel expenses, including the cost of meals and lodging, employer-paid reimbursements are tax-free to the employees and deductible by the company. But this can lead to a recordkeeping nightmare. With a per diem allowance, employees don't have to keep receipts for all of their travel expenses. The employer simply pays the government-approved allowance—no muss, no fuss.

Employees do not even have to report the payments on their tax return. However, they still must substantiate the time, place and business purpose of their business travel.

Important: A business owner cannot use per diem allowances if they own 10% or more of the company, although that does not restrict your business from using the rates for other eligible employees.

Notably, the government annually establishes a higher rate for certain "high-cost areas." The list of high-cost areas includes established metropolitan centers like New York, Chicago and Los Angeles. In addition, some areas may be included on a seasonal basis, such as Aspen in the winter or Ocean City in the summer. All other locations in the continental U.S. fall into the "low-cost" category.

New directions: According to the recent announcement, the new per diem rate for high-cost areas is $297 (up from $296 in FY2022). The per diem for all other localities is $204 (up from $202).

As usual, the list of high-cost areas was also tweaked. For FY2023, the destinations added to the list of high-cost areas include Gulf Shores, Alabama; Phoenix/Scottsdale, Arizona; San Luis Obispo, California; Durango and Steamboat Springs, Colorado; Bradenton, Cocoa Beach, Gulf Breeze, Panama City, Pensacola, Punta Gorda, Sarasota, Sebring and Stuart, Florida; Sun Valley/Ketchum, Idaho; Portland, Maine; Mackinac Island, Michigan; Duluth, Minnesota; Kalispell/Whitefish, Montana; Toms River, New Jersey; Glens Falls, New York; Kill Devil Hills, North Carolina; Lincoln City, Oregon; Myrtle Beach, South Carolina; Moab, Utah; Manchester, Vermont; and Port Angeles/Port Townsend, Washington.

Conversely, Crested Butte/Gunnison, Colorado was removed from the list of high-cost areas for FY2023.

In summary: This can be a valuable time-saver for employers and employees alike. Consult with your professional tax advisors concerning your company's situation.

Seven Issues for Surviving Spouses
When there's an unexpected loss

It is difficult enough to plan ahead when a spouse faces a life-threatening illness, but it is even tougher when your loved one unexpectedly passes away. Besides the emotional turmoil, there are numerous financial decisions for a surviving spouse to make and obligations and deadlines to meet.

Unfortunately, time is rarely on your side in these situations, but you do not want to make any rash decisions either. Here are seven important areas to address.

1. Notifications: For starters, you will need to notify a wide range of parties, including any employers; life insurance companies; credit card companies; the Social Security Administration (SSA); the state office for inheritance tax (when applicable); and your tax, legal and financial advisors.

2. Retirement accounts: Examine employer-sponsored accounts, like 401(k) plans and pension plans, as well as traditional and Roth IRAs. You may face options such as taking a lump-sum or partial distribution, rolling funds over into another tax-sheltered account or leaving the plan assets where they are, at least for the time being. Seek professional guidance for the hard choices.

3. Insurance: Do not assume that all your insurance policies can simply continue as before. This is a good time to review coverage—including life, health, disability income, homeowner's, auto, long-term care and umbrella insurance—to determine if they meet your changing needs. Also, amend your life insurance policy if your spouse was a named beneficiary.

4. Social Security benefits: Figure out how much you will receive in Social Security retirement benefits. Frequently, the maximum benefit will change due to the death of a higher-earning spouse. The information you need is readily available from the SSA. Factor this into the equation for retirement planning.

5. Investments: Assemble records of investments held by your spouse and those you owned jointly. Assess your current portfolio with an eye towards the future. This will likely require some adjustments relating to your personal objectives, time horizon for retirement and risk tolerance. Rely on guidance from your financial advisors.

6. Living expenses: Once emotions have calmed down, take stock of your current situation and try to project into the future. What do you need to pay now and how much money will you need the next five-to-ten years? Much depends on the stage of life that you are in. For example, more provisions will be required if you will be paying to send one or more children to college than you would need if you are near retirement or already retired.

7. Tax filings: Generally, if the estate is significant, a federal estate tax return for your spouse must be filed within nine months of death. In addition you have to file a federal income tax return by April 15 (or the next business day) of the following year, plus make timely filings of any applicable state tax returns.

Remember that you do not have to do it all alone. Your professional advisors can provide the assistance you need.

Facts and Figures
Timely points of particular interest

Delayed Reporting—Do you receive business payments from third-party networks like Venmo and Pay Pal? **1099-K forms** are sent to recipients if the business has 200 or more transactions during the year totaling more than $20,000. Under the American Rescue Plan Act (ARPA), the reporting requirement was modified for the 2022 tax year to cover transactions totaling $600 or more, but now the IRS has delayed this change for one year. Expect additional guidance from the IRS soon.

Tax Day—The due date for filing your annual individual tax return—often referred to as "Tax Day"—is **April 18** this year. That is three days later than the usual deadline of April 15 because the 15th falls on a Saturday and the next business day, Monday, April 17, is the Emancipation Day holiday celebrated in Washington, D.C. The April 18 due date also applies to the estimated tax payment due for the first quarter of 2023. Note: S corporation and partnership returns are due on March 15.