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**Congress Is Coming For Your IRA**

Recently, a client asked us what we thought of the Secure Act. Here is our answer. Like grave robbers opening King Tut's tomb, Congress cannot wait to get its hands on America's retirement account assets. The House recently passed The Secure Act (Setting Every Community Up For Retirement Enhancement Act) by a vote of 417-3. The Act is widely expected to pass the Senate by unanimous consent. While ostensibly helping Americans save for retirement, the bill will REDUCE the value of all retirement savings plans, individual retirement accounts, 401(k)s and Roth IRAs.

The main problem with the Act is that it eliminates the Stretch IRA, the fixed star in the financial planning firmament since 1999. The Stretch IRA lets savers leave their retirement accounts to children, grandchildren or other beneficiaries. Under current rules, the recipients can parcel out the RMDs (required minimum distributions) from the accounts over the course of their actuarial lifetimes. Payouts tend to be relatively small for children but grow in size over DECADES (maybe 70 - 100 years) until the inherited IRA might comfortably provide for the CHILD's retirement through the power of Tax-deferred compounding. A parent could die with the knowledge that, whatever vicissitudes their children might experience in life, they won't have to worry about retirement.

Congress wants to KILL this. The Secure Act gives non-spouse beneficiaries only 10 years to pull out all the money in an IRA. The effect would be to make more of an IRA subject to taxes sooner as distributions would be made in supersized chunks and subject to higher tax brackets. As much as ONE –THIRD MORE of an inherited IRA would go for TAXES than under current rules. When the Tax Cuts and Jobs Act expires in 2025, taxes will rise across the board.

In exchange for seizing this windfall Congress will push back the age at which retirees must take their first RMD from 70½ to 72. This is not the deal American savers were promised when they made contributions to their IRAs during the last 20 years. The optimal approach for savers was to leave their IRA to their children or grandchildren and stretch the payouts over decades.

To give an idea of how many accounts will be affected, Fidelity took a census of its account holders and discovered 180,000 401(k) millionaires, 168,000 IRA millionaires, 22,000 educational workers or non profit staff who are 403(b) millionaires and 33,000 federal workers who have accumulated $1 million or more in their Thrift Savings Plan accounts which can be rolled into their IRAs. And this is only Fidelity. Consider the amount of people involved when you add in all the other custodians like Schwab, TD Ameritrade, Merrill Lynch, UBS, Morgan Stanley, etc.

The Secure Act will be an estate-planning CATASTROPHE for people with significant IRAs.

We have always said the government needs money and they will come after the public's money.

Senator Ted Cruz is the Senate's main holdout against the Secure Act. His concern is that the House version dropped the provision that would allow 529 plans to pay for home schooling. He might be able to holdout, but it will be a STRETCH. *Wall Street Journal 7/10/19 p. A19. Wall Street Journal 7/17//19 p. A.20.*

## Drug Induced Gambling Loss Disallowed

The Tax Court decided that a taxpayer could not deduct excessive gambling losses as a casualty loss even though they were related to the side effects of a prescription drug that caused him to lose the ability to control his impulses. Although the court found that the compulsive gambling was most likely a side effect of the medication, it was determined that the gambling losses did not result in any physical damage and were not sudden. *Mancini TC Memo 2019-16.*

## Albany Goes Wild – The Return of Rent Control

During World War II, there was shortage of apartments due to the massive dislocations of workers with many coming to New York City to help in the war effort. Due to the shortage of housing the state instituted rent control laws to prevent landlords from "rent gouging" (raising rents to what the market would bear). After the war, these controls stayed on and as a result landlords could not get a decent return on their investment. As a result, they did not maintain or improve the properties. By the 1960s, New York was the only place in the U.S. with rent controls still in place, and landlords started to walk away from their buildings and the buildings were taken over by New York City who became the landlord and they also did not improve the buildings.

In the 1990s, Governor Pataki signed legislation to phase out rent regulation. Landlords were allowed to charge market rates on vacant apartments once rents hit $2,700. As rents gradually rose with inflation, the supply of rent-controlled apartments shrank. In this manner, about 155,000 apartments were liberated from regulation. Landlords who were able to raise their rents started to maintain their properties and, as a result, new buildings went up and the construction industry boomed.

Rent control has been restored in response to rent control activists and real estate investments necessary to attract millennials and tech jobs will not be welcomed. The new legislation will cover one million apartments and will restrict the ability of landlords to evict tenants who do not pay.

This new law vindicates Amazon's decision to pull Amazon's second headquarters out of New York and instead obtain a smaller amount of Manhattan office space.

Our guess is that the construction industry will look across the Hudson in order to fill the local demand for housing. *Wall Street Journal 6/14/19 p. A16.*

## Second Home Repairs

Very often our clients who have second homes, vacation homes or rental homes spend time in travelling to repair these dwellings and sometimes take their family along. The question arises what if while the client is working on the home, the family engages in recreational activities. Is the trip considered a vacation or a deductible business expense?

The Tax Court recently considered this issue in Rose, TC Memorandum 2019-73. The Court held that the tax law prohibits the deduction of rental real estate losses when the owner's personal use of the realty exceeds the greater of 14 days per year or 10% of the days the home is rented; personal use excludes days spent at the home for repairs and maintenance even when other family members are also present.

So feel free to bring the family along if you are going to repair the home.

As always, if you have any questions about these or any other matters, do not hesitate to call us.

Remember, We're Here For You!