Tax Impact

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SECURE 2.0

New tax benefits for retirement savers

The benefits of setting aside funds in tax-advantaged accounts just got even better. The long-awaited SECURE 2.0 Act, enacted at the end of 2022, expands on the improvements made by the Setting Every Community Up for Retirement Enhancement Act of 2019 (the SECURE Act). Now you can save more and save longer for retirement, at a lower tax cost. Here are the highlights of the new law.

Saving more

Notably, the law contains provisions that enhance catch-up and matching contributions. Catch-up contributions are designed to help older retirement savers who didn't set aside enough money earlier in their careers. For example, in 2023, you can contribute up to $22,500 to a 401(k) or similar employer-sponsored plan (up from $20,500 in 2022). Plus — if you're 50 or older — you can make a catch-up contribution of up to $7,500 (up from $6,500 in 2022). For IRAs, the maximum contribution is $6,500 (up from $6,000 in 2022) plus a $1,000 catch-up contribution.

Under SECURE 2.0, starting next year, the catch-up amount for IRAs, which has stalled at $1,000 for many years, will be adjusted for inflation. In addition, starting in 2025, participants in 401(k) and similar plans who are 60 through 63 will be allowed to make catch-up contributions up to $10,000 (adjusted for inflation) or 150% of the regular catch-up amount, whichever is greater. Using the 2023 numbers for purposes of illustration, that would equate to a catch-up contribution of up to $11,250 ($7,500 x 150%).

Beware: Starting in 2024, catch-up contributions by highly compensated participants in employer plans will be required to make those contributions to a *Roth* account. In other words, these participants won't be allowed to make catch-up contributions on a pre-tax basis. For purposes of this limitation, a highly compensated participant is one who earned more than an inflation-adjusted $145,000 from the plan sponsor in the previous year.

SECURE 2.0 also makes improvements to employer matching contributions. If permitted by the plan, employees may: 1) receive matching contributions in a Roth account, and 2) starting in 2024, treat certain student loan payments as contributions for matching purposes. This second provision allows employees to receive employer matches without having to decide between contributing to their retirement accounts and paying down student debt.

Saving longer

From a tax perspective, the longer you leave funds in an IRA or employer-sponsored retirement plan, the better. That's because they continue to grow tax-deferred (or tax-free in the case of a Roth account), allowing your savings to multiply more quickly. Plus, for tax-deferred accounts, such as traditional IRAs or non-Roth employer plans, the longer you wait to withdraw the funds, the more likely you are to be in a lower tax bracket.

SECURE 2.0 allows you to save longer by increasing the age at which you must begin taking required minimum distributions (RMDs) from IRAs and employer-sponsored qualified retirement plan accounts. You may recall that the SECURE Act increased the RMD starting age from 70½ to 72, for taxpayers who turn 70½ after December 31, 2019. SECURE 2.0 raises the RMD starting age even further, first to 73 (for taxpayers who turn 72 after December 31, 2022) and later to 75 (for taxpayers who turn 73 after December 31, 2032). The following table shows the applicable RMD starting age according to your date of birth.

If you were born:	Your RMD starting age is:
Before July 1, 1949	70½
From July 1, 1949, through December 31, 1950	72
From January 1, 1951, through December 31, 1959	73
On or after January 1, 1960	75

If your 72nd birthday is in 2023, you may have previously scheduled a distribution for this year based on prior law (which would have required an RMD by April 1, 2024). However, SECURE 2.0 gives you a one-year reprieve: Your first RMD won't be due until April 1, 2025.

Other notable changes include:

- Reducing the penalty for a missed RMD from 50% to 25% of the amount that should have been withdrawn, and to 10% for taxpayers who correct the mistake on a timely basis, and
- Eliminating RMDs, beginning in 2024, for Roth accounts in employer-sponsored plans.

Saving for college

Section 529 college savings plans are a great tool. But if you don't need all the funds for qualified educational expenses, withdrawals are subject to taxes and penalties.

SECURE 2.0 allows you to roll over unused 529 plan funds, tax- and penalty-free, into a Roth IRA for the same beneficiary. Rollovers are subject to annual limits on IRA contributions and a lifetime cap of $35,000 per beneficiary. In addition, the 529 plan must be at least 15 years old, and rollovers can't be made from funds contributed within the previous five years (or earnings on those contributions).

Revisit your plan

These are just a few of the many tax benefits offered by SECURE 2.0. Your tax advisor can review your plan to ensure that you're making the most of these benefits and maximizing your retirement savings. ■

Technical corrections required

It's common for complex laws to contain mistakes, and SECURE 2.0 is no exception. As a result of apparent drafting errors in the law, there's some ambiguity over when the starting age for required minimum distributions increases to 75. Although it seems clear that Congress intended it to apply to people who reach age 73 after December 31, 2032, the law says it applies to "an individual who attains age *74* after December 31, 2032." Another apparent drafting error prohibits any catch-up contributions to employer-sponsored plans in 2024.

Congress is expected to make technical corrections to these provisions to ensure that the law works as intended. As of this writing, no corrections have been made. Contact your tax advisor for the latest developments.

Are new business start-up costs deductible?

If you started a new business during the COVID-19 pandemic, you're not alone. According to U.S. Census Bureau data, from 2019 to 2022 new business applications increased by 44%.

Many of these businesses were formed by people who found themselves unemployed in the early months of the pandemic or by entrepreneurs who saw business opportunities in the remote working environment. Although the surge has leveled off a bit, the current rate of new business creation remains substantially higher than before the pandemic.

Starting a new business isn't cheap, and many expenses are incurred long before the business officially opens. Here are answers to frequently asked questions about deducting start-up costs for federal income tax purposes.

What are start-up costs?

Start-up costs include those incurred:

- In connection with creating an active trade or business, and
- In investigating the creation or acquisition of an active trade or business.

Generally, start-up costs are capital expenses that can't be recovered until you sell or otherwise dispose of the business — although the cost of certain assets may be recovered through depreciation. However, you can elect to deduct up to $5,000 in eligible start-up costs after the business is up and running and amortize any remaining start-up costs over 180 months (15 years).

Note that the $5,000 deduction is reduced dollar-for-dollar (but not below zero) to the extent that your total start-up costs exceed $50,000. For example, if you have $53,000 in eligible start-up costs, you can deduct $2,000 in the year the business goes active. The remaining $51,000 must be amortized over 15 years. If your eligible start-up costs are $55,000 or more, you must amortize the full amount.

What can be deducted or amortized?

Start-up costs qualify for deduction/amortization if they'd be currently deductible as business expenses by an active business and are paid or incurred before your business becomes active. Eligible costs include amounts paid for:

- Researching potential markets, products, labor supplies and transportation facilities,
- Advertising the opening of your business,
- Wages for employees being trained, as well as for instructors,
- Travel and related expenses for finding customers, suppliers and distributors, and
- Fees for consultants or other professional services.

Eligible start-up costs don't include interest expense, taxes, or research and experimental costs (although these costs may be recovered under separate tax code provisions). Also, if you're acquiring an existing business, deductible/amortizable start-up costs are limited to costs associated with a general business search or with a preliminary investigation of a target business to decide whether to purchase it. Costs incurred in connection with purchasing a *specific* business are capital expenses.

Keep in mind that expenses that wouldn't otherwise be currently deductible by an active business — such as the cost of real estate, equipment, furniture or other depreciable assets — aren't considered start-up costs.

When can you take the deduction?

You can deduct start-up costs on your tax return for the year in which the business becomes active. Amortization begins in the month the business becomes active.

Under current rules, the election to deduct/amortize start-up costs is deemed to be made automatically. However, you can affirmatively opt out and elect to capitalize these expenses.

Are organizational costs deductible?

The costs associated with organizing a corporation or partnership aren't considered start-up costs. However, similar rules apply.

Indeed, you can elect to deduct up to $5,000 in qualifying organizational costs in the year your business becomes active, reduced to the extent your total organizational costs exceed $50,000. As with start-up costs, nondeductible organizational costs may be amortized over 180 months.

What if you're unsuccessful?

If you fail to acquire or launch a business, investigative costs associated with evaluating investment options or identifying potential targets are considered nondeductible personal expenses. Costs associated with starting or acquiring a *specific* business, however, may be deducted as capital losses.

Get a head start

If you're starting a new business, learn which start-up costs are deductible or amortizable. That way, you'll be ready to claim those costs once your business opens its doors. Your tax advisor can help with the details. ■

Steer clear of these 5 estate planning pitfalls

Most people recognize the need for an estate plan. Among many other things, your plan can help ensure your family will be taken care of per your wishes after your death. While it's not pleasant to contemplate your own mortality, if you're ready to begin the process of drafting your plan, keep these five pitfalls in mind.

1. You don't understand your estate plan

Surprisingly, this pitfall is at the root of many estate planning debacles, despite the guidance of an experienced estate planning advisor. Simply signing documents without knowing what you're signing, or what they mean, could cause problems.

This is especially true if you don't follow up with actions you're supposed to take.

You don't have to be a legal expert, but it's important to grasp the basic concepts. Even though you can rely on your advisor, knowledge is power.

2. You don't properly fund trusts

Frequently, an estate plan will include one or more trusts, including a revocable living trust. The main benefit of a living trust is that assets transferred to the trust don't have to be probated and exposed to public inspection. It's generally recommended that such a trust be used only as a complement to a will, not as a replacement.

> ***Typically, an estate plan has several moving parts, including a will, a power of attorney, trusts, retirement plan accounts and life insurance policies.***

However, the trust must be funded with assets, meaning that legal ownership of the assets must be transferred to the trust. For example, if you're transferring securities or bank accounts, you should follow the directions provided by the financial institutions. Otherwise, the assets must be probated.

3. You don't properly title assets

Both inside and outside of trusts, the manner in which you own assets can make a big difference. For instance, if you own property as joint tenants with rights of survivorship, the assets will go directly to the other named person, such as your spouse, on your death.

Titling assets at the time of purchase (or transfer) is critical. But you also should review these designations periodically, just as you should your beneficiary designations.

4. You don't coordinate different plan aspects

Typically, an estate plan has several moving parts, including a will, a power of attorney, trusts, retirement plan accounts and life insurance policies. Don't look at each piece in a vacuum.

Individually, each aspect may have different objectives. But, together, the components should sync to form a well-coordinated plan.

5. You don't review the plan

Think of your estate plan as a "living" entity that must be nourished and sustained. Don't allow it to gather dust in a safe deposit box or file cabinet. Consider the impact of major life events such as births, deaths, marriages, divorces, or job changes and relocations, just to name a few.

The easiest way to avoid problems regarding your estate plan is to have a qualified estate planning advisor draft it for you. He or she has the expertise to help ensure that your plan will work as intended after you're gone. ■

Tax Tips

Renting to family and friends: Handle with care

Ordinarily, you're entitled to deduct the expenses of owning and operating a rental property. You may even be able to claim a loss if those expenses exceed your rental income (subject to certain limitations).

However, if you rent a property to a family member or friend for less than fair market rent, the IRS will consider the property to be a *personal residence* rather than a rental property. As such, you'll still have to report the rental income on your tax return, but you'll lose many of the deductions associated with rental properties. (Although depending on your circumstances, you may still be able to deduct some or all of your mortgage interest and property taxes.) ■

ESAs for employees

Starting in 2024, employers can set up emergency savings accounts (ESAs) for non-highly-compensated employees that are linked to a 401(k) or similar plan, under SECURE 2.0. ESA balances are capped at $2,500 and may

only accept employee contributions. (These contributions count for purposes of employer matching contributions to the linked plan.) Contributions — up to 3% of salary — must be made on an after-tax basis (similar to a Roth account) and the funds must be available for withdrawal at least once per month. Withdrawals from ESAs are tax- and penalty-free. ■

QCDs expanded

A qualified charitable distribution (QCD) is a powerful tool for achieving your philanthropic objectives in the most tax-efficient way possible, if you're age 70½ or older and charitably inclined. Ordinarily, to deduct a charitable gift, you must itemize deductions and the gift must not exceed a certain percentage of your adjusted gross income. A QCD allows you to bypass those restrictions by transferring up to $100,000 per year — tax-free — directly from your IRA to a qualified public charity. And a QCD counts toward your required minimum distribution (RMD).

Now, under SECURE 2.0, you have a one-time opportunity to make a QCD of up to $50,000 to a charitable gift annuity or charitable remainder trust for the benefit of you or your spouse. Not only do you enjoy the substantial tax advantages of a QCD, but you also create an income stream for life. ■