



**WHAT THE SECURE ACT MIGHT MEAN FOR YOU  
AND YOUR ESTATE PLAN**



**IN THIS ISSUE:**

**Secure Act** ..... Page 1-2

**COVID-19** ..... Page 2

**Hawaii** ..... Page 2

**Absolute Trust Talk** ..... Page 2

**Legal Protection/Dementia** ..... Page 3

**Stay Informed** ..... Page 3

**Free Notary Services** ..... Page 3

**Dear Clients** ..... Page 4

On December 20, 2019, President Trump signed into law the Setting Every Community Up for Retirement Enhancement Act (the “SECURE Act”), and it became effective on January 1, 2020. The SECURE Act has made several changes to the administration of retirement accounts. One big change is that it increases the required beginning date for required minimum distributions (“RMDs”) from your individual retirement accounts (“IRAs”) from 70 ½ to 72 years of age. Another change is that the SECURE Act eliminates the age restrictions for contributions to qualified retirement accounts.



the requirements of the exceptions can still withdraw the inherited IRAs over their life expectancy. These exceptions include spouses, beneficiaries who are not more than ten years younger than the account owner, disabled children, and chronically ill individuals (there are requirements that have to be met to qualify as a disabled child or chronically ill individual). Minor children are also exempt

from the ten-year rule until they turn eighteen. This means that the ten-year rule goes into effect when they turn eighteen, and their inherited retirement assets must be distributed in their en-

tirety, and all of the income tax must be paid by their 28th birthday.

There are a few aspects of your estate plan that should be reviewed in light of the new SECURE Act:

If your revocable living trust or standalone retirement trust currently handles the distribution of your retirement accounts, you need to determine whether a “conduit” provision is appropriate. Conduit provisions required the trustee to distribute all IRA distributions to the trust beneficiaries. Under the SECURE Act, with the 10-year rule, a conduit provision may no longer be desirable. There is an alternative called an “accumulation” provision that allows the trustee to retain IRA distributions in the trust and not distribute all of the money to the beneficiaries.

If you don’t already have a trust handling your retirement accounts, you might want to begin that discussion. Standard beneficiary designation forms for retirement accounts do not take into account your estate planning goals or any unique beneficiaries that you

(CONT.)

By far, the biggest impact the SECURE Act has on retirement accounts is the requirement that most designated beneficiaries of an inherited retirement account withdraw the entire balance within ten years of the account owner’s death. This eliminated a beneficiary’s ability to stretch distributions from an inherited IRA over the beneficiary’s own life expectancy. This shorter time frame for taking distributions will likely cause income tax problems for beneficiaries. Smaller distributions spread out over many years usually result in relatively small increases in the beneficiary’s taxable income each year. A larger distribution could push a beneficiary into higher tax brackets.

Another concern with inherited retirement accounts being cashed out by the ten-year mark is that once they are cashed out, the money is no longer protected from a beneficiary’s creditors, future lawsuits, or a divorcing spouse.

There are exceptions to the new ten-year withdrawal rule. The beneficiaries who meet

“The simplest and shortest ethical precept is to be served by others as little as possible, and to serve others as much as possible.”  
—Leo Tolstoy



Dear Clients and Other Friends,

We knew the SECURE Act was making its way through Congress to the President’s desk since last May. Now that it has been passed into law, I really want to emphasize how significantly it may impact some of you. Read our article on the first page and make an appointment to discuss this with your financial planner and your attorney. There are many different approaches that people with large retirement assets should consider now.

The 50th anniversary of Earth Day is coming up this month. I keep trying to find new ways to live a more earth-friendly life and, hope you do, too. We can all do more.

Very truly yours,



Kirsten Howe



## WHAT THE SECURE ACT MIGHT MEAN FOR YOU (CONT.)

might have. A trust can address the new SECURE Act rules while also providing continued protection for your beneficiaries.

It is also a great time to review those beneficiary designations on your retirement accounts. If you have had ANY life changes: divorce, death of a spouse, marriage, birth or death of a child, etc., you need to review and likely update your beneficiary designations. Additionally, if your retirement account has changed administrators at all since you opened an account, you should review your beneficiary designation. Just because you had a designation filed with the old company does not mean that the new company accepts it, or that it automatically carried over.

## COVID-19

Due to concerns about the health and well-being of everyone, we wanted to let you know that we are prepared to continue to serve you without interruption.

Absolute Trust Counsel is here to ensure that no matter what happens, your future and your legacy are protected. And, that's why we can't stress enough the importance of continuing with your planning as scheduled. Now more than ever, having a complete, up-to-date estate plan will help provide the security needed by looking ahead.



## ABSOLUTE TRUST TALK

If you need something new to listen to while you are at home, please subscribe to our podcast, Absolute Trust Talk on iTunes. We have over 30 episodes with important and

Because of the SECURE Act's tax implications on your beneficiaries, it is a good time to review any charitable wishes you might be able to make come true using those retirement accounts. Remember, charities don't pay income taxes, so IRAs are a great way to leave a charitable bequest. It may also be a good time to review your own RMDs because you may be able to absorb some of the taxes while you are retired instead of pushing your beneficiaries into a higher tax bracket.

The SECURE Act has created the need for everyone with an IRA or other retirement account to review their estate plans and beneficiary designations. Make sure that your plan is current and consistent with your wishes and goals.

To help make planning as simple as possible, the Absolute Trust Counsel team is prepared to conduct meetings via phone or video conferencing tools such as Skype, Zoom, or JoinMe. All necessary meetings can be completed virtually. If your situation requires a notary, we will send your documents to you with detailed instructions on how to legally execute them without the notarization.

helpful topics. You can also find every episode on our website, [www.AbsoluteTrustCounsel.com](http://www.AbsoluteTrustCounsel.com). Click on the podcast tab at the top of our home page and you will have access to every one of the interviews.

## DO YOU OWN PROPERTY IN HAWAII?

If you own real property in Hawaii, you may be subject to an estate tax under Hawaiian law. This may not be an issue if you expect your estate to be liquidated, but it might be an issue if your family wants to keep the property. Is there enough cash in your trust to pay the taxes? Do you need life insurance to cover the tax? Do you have an irrevocable life insurance trust for that life insurance policy so you don't increase your taxable estate? These are all great questions

to ponder when keeping your estate plan up to date. For more detailed information about this new law, check out our recent blog post at [www.absolutetrustcounsel.com/blog/](http://www.absolutetrustcounsel.com/blog/).



## HOW TO ENSURE LEGAL PROTECTION FOR A LOVED ONE WITH DEMENTIA

As dementia progresses, a loved one will be unable to protect themselves or even designate someone to help them. It is imperative to take steps to legally protect your loved ones with dementia to not only keep them safe, but also to maintain their standard of care. It is important to get a plan in place as soon as a diagnosis is made, even if you think you have a lot of time. There are a handful of things that can be done early that will be very useful to avoid extra stressors in an already stressful time and help things go smoothly.

### CREATING AN ADVANCED HEALTH CARE DIRECTIVE

An advanced health care directive is a combination of a living will and a medical power of attorney. An advanced health care directive and a HIPAA (privacy) waiver that have been updated and properly executed will allow someone with dementia to plan their own wishes so that when they are no longer able to make informed decisions, the person they named in their documents can make decisions based on the dementia patient's own wishes and desires and can legally communicate with the doctor.

### CREATING A WRITTEN CARE PLAN WITH YOUR MEMORY CARE COMMUNITY

If your loved one's dementia reaches a point where a memory care community is needed, you can help protect your loved one by working with their facility to create a written care plan. Not only is a written care plan and regular re-evaluations and modifications to the care plan the law, but it helps you to help your loved one by making sure they are receiving the amount

and quality of care that is needed for them personally. A written plan makes it so much easier to hold the facility accountable for their actions, or more often than not, inactions.

### CREATING AN ESTATE PLAN

If your loved one does not have a will or trust and has very clear ideas for what they would like to happen to their assets, they should set up an estate plan with an attorney while they are still able to make those decisions. Creating an estate plan means your loved one can have more direct control over their own financial future as well as lay out plans for after they die. A financial power of attorney should be included in this estate plan so that there is a smooth transition and no interruption of care if your loved one is unable to manage their own finances. A well curated team of an estate planning attorney, financial advisor(s), and a certified public accountant (CPA) can sometimes spot or thwart elder abuse, or a reduction in



capacity within financial patterns.

### MONITORING YOUR LOVED ONE'S TREATMENT

People with dementia are at a significant risk for being mistreated or taken advantage of because they may not be aware of what is going on or they have trouble communicating due to the dementia. The best way to protect your loved one is to visit them often and to pay attention to their care.

All of these suggestions can go a long way to making a difficult disease such as dementia a little easier to navigate.

## THE EASIEST WAY TO STAY INFORMED

Social media can be a very helpful way to stay informed and educated on recent changes and events happening in our industry. If you haven't already, please "like" or "follow" us on our social media Facebook, Twitter and LinkedIn by typing Absolute Trust Counsel and Kirsten Howe in the search box and click on "Like" or "Follow." It's that easy. You will have quick access to our blogs, announcements, events and much more.

## FREE NOTARY SERVICES

Where do you go when you have to get an important document notarized? How much does it cost? Sometimes finding a notary, as well as paying the costly fee, can be daunting. Absolute Trust Counsel offers FREE notary services to our clients. Just call the office to schedule a quick, 5-10 minute appointment and one of our three licensed notaries will accommodate you (don't forget to bring your ID). It is our pleasure to give our clients something extra and let them know they are important to us. Call us today at 925-943-2740.

Please recycle, reduce and reuse by sharing this newsletter with your family and friends. If you no longer wish to receive it, please send an email to [info@absolutetrustcounsel.com](mailto:info@absolutetrustcounsel.com).