What Congress could do to RMDs

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(Editor's Note:** Part 3 of a 3-part series on required minimum distributions.**)

By Lloyd Lofton and Gene Bond

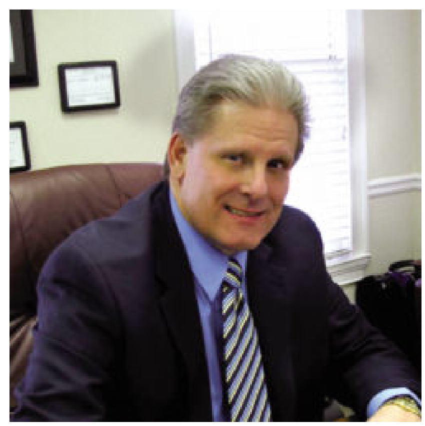
In the Part 2 of this series, we warned you to have some Tylenol on hand before you read Part 3 because your head may explode. You could become dizzy due to all the abbreviations and names on the bills currently in Congress as we review how these could impact our clients and your practice.

Since the beginning of time, the age a someone was required to take minimum distributions from their traditional retirement accounts was 70 ½.

OK, maybe it hasn't been since the beginning of time, since traditional retirement accounts were created in the 1980s. But since the creation of those accounts, those who have them were required to take RMDs when they turned 70 ½.

Pending legislation

The SECURE Act of 2019 was signed into law by then-President Donald Trump on Dec. 20, 2019. The law made many changes to retirement accounts, including raising the RMD age from 70 ½ to 72.



Lloyd Lofton

In 2021, some lawmakers begin to get feedback from their fellow members of Congress on the possibility of passing what became known as SECURE 2.0. The legislation, which was first introduced in the House in May 2021, was subsequently marked up and approved by the Ways and Means Committee, but never voted on by the full chamber.

Congress took it up again in 2022.

One of the changes they are considering is extending the age to begin taking RMDs to age 75.

A bill is now headed for consideration by the full Senate that would move the age at which you must begin taking RMDs to 75.

The House of Representatives passed a similar measure. Sponsors of the bill are hoping that if the whole Senate passes the bill, the proposed delay in having to start taking distributions from individual retirement accounts and similar plans will become law.

What the House of Representatives did

In March, the House passed the Securing a Strong Retirement Act of 2021 (dubbed the SECURE Act 2.0), which included some significant changes to the U.S. retirement system.

Gene Bond

Among other things, the legislation, which passed with an overwhelming 414-5 majority, aims to replace the current age to start taking RMDs with a sliding scale to determine the age you must start taking at least the minimum distribution amount.

This could have a profound impact on retirees' ability to save, as it would allow them to keep more money invested and defer taxes that much longer.

Note that there should be an emphasis placed on the word "could" since it could cause a person's income tax to go up should there be an increase in tax rates in the future.

Besides delaying RMDs, the 139-page House bill includes a variety of provisions designed to help expand coverage, increase retirement savings, preserve retirement income and simplify the rules that govern retirement plans.

The bill aims to build on the SECURE Act of 2019, which included several reforms that could help Americans save for retirement.

As currently written, the SECURE Act of 2022 establishes a sliding scale for RMDs.

Instead of 72 serving as the default age when minimum distributions start, RMDs would begin according to the following schedule:

- Age 73 in 2023 for people who turn 72 after Dec. 31, 2022, and who turn 73 before Jan. 1, 2030.
- Age 74 in 2030 for people who turn 73 after Dec. 31, 2029, and who turn 74 before Jan. 1, 2033.
- Age 75 in 2033 for people who turn 74 after Dec. 31,

What the Senate just did

The Senate Finance Committee recently advanced a similar version of the House bill, known as the Enhancing American Retirement Now (EARN) Act, to the full Senate. The Senate bill raises the age at which RMDs must begin to 75 in 2032 from the current 72.

As stated above, the House version takes a phased approach.

The Senate is likely to merge its EARN Act with the RISE & SHINE Act (I warned you that the abbreviations and names Congress has come up with could make you dizzy!), which was approved June 14 by the Senate Health, Education, Labor and Pensions Committee, to form the Senate's version of SECURE 2.0.

However, because there are so few legislative days left in the current session, members of the relevant Senate and House panels may work to craft a unanimous bill, part of the reconciliation process.

Although there are no guarantees when it comes to Congress, it is safe to say that if you will be 72 years old no later than Dec. 31, 2022, you will not get a break and have your first RMD delayed to a later age.

That's not to say that if you turn 72 in 2022, you will have to take an RMD in 2023.

You don't.

Why not?

Because of the way the law is written, someone must take their first RMD no later than April 1 of the year after they turn 72.

This, of course, means that you could postpone your first RMD until the year you turn 73.

However, since you must take an RMD every year starting when you are 72, if you delay taking your first RMD until the year you turn 73, you will have to take two RMDs that year.

Why do you have to take two that year?

You have to take the RMD for the year you were 72 and the RMD for the year you are 73 in the same year.

What comes next

The bipartisan momentum behind the move to raise the age for taking RMDs may pass later this year.

However, the initiative has its critics.

One criticism is that this measure is a gift to financial services firms, which typically earn fees based on assets under management. So, the longer a person waits to start withdrawing money, the longer the money will stay invested and the longer the investment firms, insurance companies, banks and other types of financial services firms get to keep your client's money under their control.

Another criticism is that it would only help the rich who have beefed up balances in their tax-advantaged accounts. This criticism stems from the belief that most of the “non-rich” (not my word) blue-collar and working-class people will have to withdraw money to supplement their income so that they can retire. So they are probably already taking out more in RMDs than they are required to.

The drive to delay the start of RMDs enjoys widespread support - not only in Congress and not only from financial services firms but by groups whose purpose is to help those who don’t have a voice.

Groups such as the Insured Retirement Institute, AARP and other consumer advocate groups support the delay in requiring minimum distributions.

Wayne Chopus, president and CEO of the Insured Retirement Institute, has been quoted as saying “We have strong bipartisan momentum to address the anxiety and insecurity that many workers and retirees have about their ability to accumulate sufficient savings to provide them with sustainable income during their retirement years.”

The bottom line

It appears that lawmakers on Capitol Hill are moving on a bipartisan basis toward delaying the age at which retirees must begin drawing down their savings from tax-deferred plans.

Both the House and the Senate, as well as consumer advocacy and industry groups, appear united behind such a move.

However, sources in Washington are telling us that it’s unlikely for any bill such as this to reach President Joe Biden’s desk until later this year.

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