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OPINION | REVIEW & OUTLOOK

The IRA Bait and Switch

Congress changes the rules—unless you die before New Year's Day.

By The Editorial Board
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The trouble for retirement accounts begins on page 643 of Congress's behemoth spending bill, under the always ominous heading: "Title IV—Revenue Provisions." That's where lawmakers upended the meticulous estate planning of who knows how many Americans.

Soon many people who inherit an Individual Retirement Account will be required to empty it within 10 years. Under the old rules, an heir—say, a 5-year-old grandchild—could stretch the required distributions over his lifetime. That meant longer tax-free growth to build family wealth. Smaller distributions also could prevent the heir from vaulting into a higher tax bracket.

No more. The new rule is 10 years, with exceptions for spouses, minor children and heirs who are disabled or chronically ill. This change, the new law says, generally applies to account holders who “die after December 31, 2019.” Well, thanks for the grace period, m’lords. For readers who have planned to pass on an IRA, Congress thoughtfully gave you 12 days to shuffle off this mortal coil. But if you survive to see that glowing orb in Times Square hit the deck on New Year’s Eve, sorry, call your estate adviser.

The provisions at issue here are part of the Secure Act, which was a 124-page bill before being wrapped into the spending package. Some of its changes to retirement rules are modest updates. The age limit on contributing to a traditional IRA will be eliminated. Mandatory distributions will start at 72, not 70½. Given longer lifespans, these are prudent tweaks.

The rub is that they reduce revenue. To help pay for the bill, Congress killed the “stretch IRA” for heirs. There’s a reasonable case that IRAs weren’t meant to outlive their owners by decades. But imagine a 90-year-old who banked on this strategy, diligently saving money and thinking about his legacy. What’s the argument for saying that if he lives past midnight on Dec. 31, his estate plan turns into a pumpkin?

We talked to a few folks at or near retirement—a doctor, an investor, a pilot—who are justifiably upset. One saved for the past 12 years with the “stretch” in mind. Another already paid taxes on a Roth IRA conversion. What now?

Financial adviser Phil DeMuth suggests that one option might be to give an IRA to a charitable remainder unitrust, often called a CRUT. The trust’s beneficiaries get a share of its assets each year. After a certain period or the death of the last beneficiary, the remaining funds, which must be at least 10% of the starting value, go to charity. Or at least that’s how a CRUT works at the moment.

How about after Congress’s next cash grab, though? This is what makes the Secure Act so corrosive. Favorable tax treatment isn’t a holy writ. But before saving money over decades in a special account, people need to have faith that future politicians won’t rewrite the rules willy-nilly. Changes should be gradual, with grandfather clauses. In its hurried Christmas spending spree, Congress has shown how carelessly it is willing to break its end of the bargain.

Today stretch IRA investors and heirs are being betrayed. Tomorrow, when the fisc really hits the fan, who knows?