



Estate Preservation Law Offices

Bridging the Gap

between traditional estate planning and asset protection

Fall 2020

From the Partners

The 2020 Landscape: COVID-19 and the SECURE Act

As estate planners, one of our essential obligations to our clients and professional network is to keep you informed of changes in the law that could impact inheritances and estate plan documents. On January 1, 2020, the SECURE Act (“Setting Every Community Up for Retirement Enhancement Act”), a bipartisan retirement bill, went into effect. This law impacts nearly everyone because it affects all pre-tax retirement accounts, no matter their value or who owned them. Mere weeks later, as estate planners and other financial and tax professionals diligently pored over the law to educate themselves so they could begin advising their clients, the world began to watch the developments surrounding the COVID-19 outbreak.



Brendan J. King



Linda T. Cammuso

As the worldwide pandemic unfolded over the spring and continues to manifest uncertainty in every aspect of life, we are reminded daily of the sobering need to be prepared. From our position as an estate planning firm, we have witnessed the loss of too many clients and even loved ones in our own midst. We have all experienced losses of a different sort, too: opportunities and experiences, routines and vital services, and simply the loss of knowing what comes next.

We understand perhaps more today than ever before how

important our services are to our clients. Knowing your estate plan is in place and up to date is a small piece of the puzzle, but one that can offer immediate peace of mind. Just as critical is ensuring that your plan adequately addresses changes in the law.

Read on to understand the important estate planning implications of the SECURE Act, and know that as the pandemic continues to play out, EPLO remains fully available to service your estate planning needs remotely and in person.

Understanding the SECURE Act and How it Affects You: Major Changes To Inheritance of Retirement Accounts

The SECURE Act is essentially a statement by Congress that retirement accounts were meant to benefit the account owners/contributors during their lives, not function as estate planning vehicles with prolonged tax benefits for heirs. However, since most people have been faithfully and aggressively contributing to pre-tax retirement vehicles for

their entire adult lives, it is hard not to feel as if the estate planning rug has been pulled out without warning.

The law contains many favorable provisions for retirement account owners, including removing the age limit for IRA contributions (previously limited to 70 ½) and extending

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Understanding the SECURE Act

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the age to begin taking “required minimum distributions” (RMDs) to age 72.

Changes the rules

However, the law substantially changes the rules regarding the inheritance of retirement accounts for account owners who die after January 1, 2020 - with the exception of 403(b) and 457 plans for government workers and the Thrift Savings Plan for federal employees, which benefit from an extra two years before they are impacted by the new law, meaning that these accounts will be governed by the “old” law for account owners who die prior to January 1, 2022.

Eliminates “stretch” for most beneficiaries

Most notably, the new law eliminates the ability for most beneficiaries who inherit retirement accounts to “stretch” the taxable distributions over their actuarial life expectancies, as was previously allowed. Under the new law, most beneficiaries must withdraw/pay taxes on the entire inherited account over a maximum window of ten years. Certain beneficiaries, known as “eligible designated beneficiaries” (EDBs), are exempted from the ten-year distribution requirement: surviving spouses, minor children, disabled or chronically ill beneficiaries, and beneficiaries who are less than ten years younger than the deceased account owner.

Proper planning never more important

Proper estate planning for retirement account owners has never been more important. In some cases, existing beneficiary designations should be examined and changed to avoid undesirable or even dire consequences beyond the increased tax rate. For instance, accounts payable to so-called “conduit trusts” would now result in the account not just being taxed, but also paying outright to the beneficiary, within a ten-year timeframe, unless the beneficiary of the trust is an EDB. For younger or otherwise financially vulnerable beneficiaries, this could be an unacceptable outcome.

Accumulation Trusts

The new law underscores the importance of discretionary trust models, known as “accumulation trusts”. Unlike a conduit trust, an accumulation trust allows funds distributed from retirement accounts to be maintained inside the trusts, and does not require the retirement distributions to

be paid out to the trust beneficiaries. While accumulation trusts require purposeful tax planning after the account owner’s death, they are critical to protect the inheritances of beneficiaries who may be financially vulnerable due to age, disability, marital issue or other factors. Fortunately for existing EPLO clients, we have been drafting and funding accumulation trusts since our beginning. (Please see A Closer Look at Trusts and Retirement Accounts on page 3)

While the new rules will unavoidably result in a greater tax liability for most inheritance scenarios, the law presents new planning opportunities, particularly for charitable planning. For account owners who are charitably inclined, the strategic use of a charitable remainder trust will allow for a longer payout period for beneficiaries, and therefore substantially reduce the overall income tax liability, while at the same time accomplish charitable objectives by benefitting designated charities at the end of the beneficiaries’ lives.

While maintaining your estate plan has always been important, this particular change in the law warrants special attention. In addition to reviewing estate documents and account beneficiary designations, account owners should also consult their financial planners to consider lifetime strategies, including Roth conversions, to minimize the overall tax impact to these accounts and their future beneficiaries.

Worcester Business Journal Names Linda Cammuso One of Six Outstanding Women in Business

Attorney Linda Cammuso has received the 2019 Worcester Business Journal Outstanding Women in Business Award.



This prestigious award honors six outstanding female business leaders annually. WBJ notes: “More than anything, these awards remain a celebration of women who have reached great heights in a business environment where the advantages still skew male. They are role models to both those currently sitting in corner offices and the next generation of executives.”

A Closer Look at Trusts and Retirement Accounts

One of the most critical implications of the SECURE Act is for accounts that are payable to trusts upon the owner's death. There are many reasons people leave their retirement accounts payable to a trust rather than directly an individual, including: minor/young beneficiaries (children, grandchildren, etc.); special needs/disabled individuals who cannot hold assets in their own names; financially vulnerable beneficiaries who may be in a bad marriage, have spendthrift tendencies, creditor issues or addiction struggles; and blended family/subsequent marriages, where spouses want to benefit each other but control the ultimate payout of the account to their own children/family.

Conduit Trusts

In tax-oriented retirement trust planning there are two main trust types: "conduit trusts" and "accumulation trusts". Conduit trusts were historically preferred by some estate planning attorneys and financial institutions for their simplicity and tax efficiency. Under the old rules, they allowed each trust beneficiary to use his/her life expectancy to "stretch" the required minimum distributions (RMDs), which are paid out to the beneficiary each year. Under the new law, because the stretch has been eliminated for most beneficiaries, the conduit model now results in the account not just being taxed, but also paying outright to the beneficiary, within a ten-year timeframe (unless the beneficiary is an "eligible designated beneficiary" [EDB] who falls into one of the ten-year exception categories). For young or otherwise financially vulnerable beneficiaries, this could be an unacceptable outcome.

Accumulation (Discretionary) Trust Model

The second type of retirement trust, an accumulation trust, is a purely discretionary model that allows RMDs to be "accumulated" inside the trust and does not require them to be paid out

to the trust beneficiaries except as the Trustee determines. The accumulation model is the preferred model for situations warranting protective planning, including special needs beneficiaries, minors, and others who should not hold assets. While the new law will shorten the taxation timeframe to ten years for most trusts, even those with EDBs (with the notable exception of properly-structured special needs accumulation trusts, which continue to benefit from the stretch), the distributions will remain protected in the trust. Accumulation trusts require purposeful tax planning after the account owner's death to minimize the impact of trust tax rates, but they remain the best option to protect the inheritances of beneficiaries who may be financially vulnerable due to age, disability, marital issue, creditor issues, or other factors.

Considerations Under the New Law

Under the new law, the conduit trust model allows EDBs to still benefit from the stretch (i.e. longer withdrawal period) that would have been available under the old law. In most cases, the tax benefit of the stretch is likely not

worth the exposure of the distributions in the hands of a young or otherwise vulnerable beneficiary.

However, conduit trusts may prove useful, even preferable, for blended family/subsequent marriage situations. In second marriages, spouses often desire to give each other the benefit of RMDs on the first account owner's death, while maintaining control on the final payout of their own account. The conduit trust model will allow the surviving spouse to use his/her age to stretch the deceased spouse's account RMDs, which would pay outright each year, while having the undistributed balance of the accounts revert to the original owner's children/family on both spouses' deaths. Since the accumulation trust model does not allow the "stretch" for a surviving spouse, and would tax the first-to-die's retirement accounts within ten years of death, the conduit model may be the best option for a blend of tax efficiency and future control.

These rules and scenarios are very complex. Fortunately, the EPLO attorneys can guide you through the intricacies of these rules and their applicability to your unique situation.

Update: EPLO's Blackstone Valley Expansion

In 2018, EPLO acquired the trust and estate planning, elder law and probate practice of the Uxbridge firm Cove & Hogarth (now known as Joseph C. Cove Law).

Following the 2018 transition, EPLO now utilizes the beautifully historic downtown Uxbridge building at 9 North Main Street to meet with clients in Uxbridge and the surrounding area. This location has also proven to be another step forward in EPLO's ongoing geographic expansion, now into the Blackstone Valley region with its rich history and dynamic population. More than a year after the transition, Joe says that he is extremely pleased with EPLO and the excellence of the services they are providing to his clients, as well as the continuation of his work in the Uxbridge and surrounding communities.

This is the second acquisition for EPLO. In 2016, we acquired Princeton-based Law Office of Carrie Dolmat-Connell, an estate planning, elder law, probate and administration, and business law firm.

Practice Areas

Estate Planning
Asset Protection Planning
Elder Law and Medicaid Planning
Business and Corporate Planning
Special Needs and Disability Planning
Estate and Trust Administration
Guardianships and Conservatorships
Tax Planning: Corporate and Individual
Charitable and Exempt Organizations
Equine and Pet Trust Planning
Veterans' Benefits Planning
Financial Aid Planning

Locations

Our main office is located at
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For our clients' convenience, we also have offices in Leominster, Uxbridge, Braintree, and Hyannis, MA.

Contact Us

Whatever services you need, you may rely on us for steadfast, friendly and skillful service.

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EPLO Updates

Carol Barton Named Chair Of American Cancer Society Gift Planning Council



Attorney Carol Barton has been named Chair of the Nationwide Gift Planning Advisor Council of the American Cancer Society (ACS). Established in 2009, the Council provides feedback and suggestions to ACS to engage potential donors to make bequests to ACS.

Carol first became associated with the Council in 2015. At last year's national meeting, she delivered a major speech and presented two Advisors of the Year awards to individuals who had directed millions of dollars to ACS through planned giving. This past spring, she served as the Chairperson at the annual meeting in Atlanta.

Carol's work with ACS is an important reminder of the importance of charitable planning and the opportunity we all have to leave a legacy of benevolence in our own estate plans. We are proud of Carol's contributions to the charitable planning field and her service to this important organization.

Attorney Mariah Heppe Joins EPLO



We are pleased to introduce Attorney Mariah L. Heppe, who joined our firm in April of 2019. Her practice at EPLO concentrates on estate planning, estate and trust administration and elder law.

Mariah's estate planning and elder law experience began in Boston, where she worked at Cohen & Oalican, LLP and Margolis & Bloom concentrating on long-term care planning, estate planning, guardianship and probate administration, special needs planning and Medicaid qualification. She was also the Managing Attorney for the elder law firm formerly known as Law for Life in Winchester, MA.

Later residing in Texas, Mariah became a member of the Texas bar and practiced in the estate planning and family law fields. Mariah holds a Juris Doctor degree from Suffolk University Law School and a Bachelor of Arts from Wheaton College.

Married to an Active Duty Army Officer, Mariah has served as a volunteer mentor and advisor for the Army's Family Readiness Group (FRG) throughout her tenure as a military spouse. She has proudly supported her husband through three deployments.

With EPLO's continued growth, we are excited to have Mariah as part of the EPLO staff. Her unique life experiences and compassionate, energetic disposition make for an effective estate planner. Her understanding of the challenges facing current and former military families are a distinct advantage to our military Veteran clients.