Proskauer

Personal Planning Strategies

December 2019

Estate, Gift and GST Tax Update

What This Means for Your Current Will, Revocable Trust and Estate Plan

The estate and gift tax regimes have been permanent and unified since the passage of The American Taxpayer Relief Act of 2012 (the "2012 Act"). In 2017, the Tax Cuts and Jobs Act (the "2017 Act") significantly increased the estate, gift and generation-skipping transfer ("GST") tax exemptions, which will continue to be increased for inflation through December 31, 2025.

Tax Exemption Inflation Increases for 2020

For 2020 the increases under the 2017 Act are as follows:

- In 2020, there is a $11,580,000 federal estate tax exemption and a 40% top federal estate tax rate.
- In 2020, there is a $11,580,000 GST tax exemption and a 40% top federal GST tax rate.
- In 2020, the lifetime gift tax exemption is $11,580,000 and a 40% top federal gift tax rate.
- In 2020, the annual gift tax exclusion is $15,000.

Note that the increased exemption is scheduled to sunset on December 31, 2025. Under proposed regulations issued by the IRS and Treasury on November 20, 2018 it would be clarified that the government will not claw back amounts given away between 2018 and 2025 with respect to someone who dies in 2026 or beyond when the gift and estate tax exemptions are set to return to a $5 million exemption, indexed for inflation, which applied under the 2012 Act.

These increased exemptions under the 2017 Act create opportunities to make larger lifetime gifts, to leverage more assets through a variety of estate planning techniques (such as a sale to a grantor trust) and to shift income producing assets to individuals such as children or grandchildren who may be in lower income tax brackets and/or reside in states with a low income tax rate or no state income tax.

In particular, those who used substantially all of their exemptions prior to 2018 should now consider making additional lifetime gifts to utilize the increased exemptions before they sunset at the end of 2025.

How do these changes affect your existing Proskauer estate planning documents?

Our estate planning documents are drafted to be flexible and, in general, their overall structure remains unaffected by the increased exemption amounts. Still, there may be instances where you will want to update your documents.

It should be noted that while the estate tax exemption is portable among spouses at death, the GST tax exemption is not portable. Also, most states that have separate state estate tax regimes (such as Connecticut and New York) do not permit portability. This creates an extra level of complication. Use of other estate planning options, such as bypass trusts at the first death of a married couple, may be most useful where these limits on portability are applicable.

Additionally, if you are a married couple and live in a state with a state estate tax (or own real property in a state with a state estate tax, such as Connecticut, Massachusetts or New York), there may be provisions that should be added to your documents which could save state estate taxes at the death of the first spouse.

Please do not hesitate to call us so that we can review your documents and make sure that they are up to date and reflect your current wishes.

Gift Tax Update

Exploit the Gift Tax Annual Exclusion Amount

In 2020, the gift tax annual exclusion amount per donee will remain $15,000 for gifts made by an individual and $30,000 for gifts made by a married couple who agree to "split" their gifts.

If you have not already done so, now is the time to take advantage of your remaining 2019 gift tax exclusion amount, being $15,000 for gifts made by an individual and $30,000 for gifts made by a married couple who agree to "split" their gifts, so that you can ensure that gifts are "completed" before December 31, 2019.

In lieu of cash gifts, consider gifting securities or interests in privately held companies or other family-owned entities. The assets that you give away now may be worth significantly less than they once were, and their value hopefully will increase in the future. So the $30,000 gift that your spouse and you make in 2019 (and the $30,000 gifts that you and your spouse make in 2020) may have a built-in discount that the Internal Revenue Service cannot reasonably question. That discount will inure to the benefit of your beneficiaries if the value of those assets rises.

Your annual exclusion gifts may be made directly to your beneficiaries or to trusts that you establish for their benefit. It is important to note, however, that gifts to trusts will not qualify for the gift tax annual exclusion unless the beneficiaries have certain limited rights to the gifted assets (commonly known as "Crummey" withdrawal powers). If you have created a trust that contains beneficiary withdrawal powers, it is essential that your Trustees send Crummey letters to the beneficiaries whenever you (or anyone else) make a trust contribution. For a more detailed explanation of Crummey withdrawal powers, please see the article on page 3 of this newsletter.

If you have created an insurance trust, remember that any amounts contributed to the trust to pay insurance premiums are considered additions to the trust. As a result, the Trustees should send Crummey letters to the beneficiaries to notify them of their withdrawal rights over these contributions. Without these letters, transfers to the trust will not qualify for the gift tax annual exclusion.

2019 Gift Tax Returns

Gift tax returns for gifts that you made in 2019 are due on April 15, 2020. You can extend the due date to October 15, 2020 on a timely filed request for an automatic extension of time to file your 2019 income tax return, which also extends the time to file your gift tax return. If you created a trust in 2019, you should direct your accountant to elect to have your GST tax exemption either allocated or not allocated, as the case may be, to contributions to that trust. It is critical that you not overlook that step, which must be taken even if your gifts do not exceed the annual gift tax exclusion and would, therefore, not otherwise require the filing of a gift tax return. You should call one of our attorneys if you have any questions about your GST tax exemption allocation.

Make Sure That You Take Your IRA Required Minimum Distributions by December 31, 2019

If you are the owner of a traditional IRA, you must begin to receive required minimum distributions ("RMDs") from your IRA and, subject to narrow exceptions, other retirement plans, by April 1 of the year after you turn 70½. You must receive those distributions by December 31 of each year. If you are the current beneficiary of an inherited IRA, you must take RMDs by December 31 of each year regardless of your age. The RMDs must be separately calculated for each retirement account that you own, and you, not the financial institution at which your account is held, are ultimately responsible for making the correct calculations. The penalty for not withdrawing your RMD by December 31 of each year is an additional 50% tax on the amount that should have been withdrawn. Please consult us if you need assistance with your RMDs.

New Jersey Estate Tax Was Eliminated on January 1, 2018

On January 1, 2018, the New Jersey State estate tax was eliminated altogether.

New Jersey passed a law in the fall of 2017 which significantly altered its estate tax for the apparent purpose of preventing the exodus of wealthy individuals. The law increased the New Jersey estate tax exemption, which was previously $675,000 per person, to $2,000,000 per person as of January 1, 2017. There is no New Jersey estate tax for New Jersey residents dying after January 1, 2018.

It is important to note that New Jersey's inheritance tax has not been repealed by this law. Inheritances to spouses, children and grandchildren are not subject to New Jersey's inheritance tax. But the New Jersey inheritance tax is levied on inheritances passing to siblings, nieces, nephews and other unrelated individuals so bequests to certain beneficiaries may still be subject to inheritance tax despite the changes to New Jersey's estate tax.

If you wish to discuss any aspect of the 2018 law as it relates to your estate planning, please contact one of the lawyers in the Private Client Services Department at Proskauer.

New York Raises Basic Exclusion Amount to $5,850,000

As of January 1, 2020, the amount of property that will be able to pass free of New York State estate tax will rise to $5,850,000. Almost six years ago, the New York State legislature passed, and New York Governor Andrew M. Cuomo signed, the Executive Budget for 2014-2015, which significantly altered New York's estate tax. The changes to the New York estate tax were made for the ostensible purpose of preventing the exodus of wealthy individuals from New York to more tax-favored jurisdictions, but the law will likely not have the desired effect.

The law increased the New York basic exclusion amount, which was previously $1 million per person. This increase was gradually made through January 1, 2019, after which the New York basic exclusion amount is equal to the federal exemption amount under The American Taxpayer Relief Act of 2012 (the "2012 Act").

One of the most significant provisions in the law, however, is that no New York basic exclusion amount will be available for estates valued at more than 105% of the New York basic exclusion amount. In other words, New York estate tax will be imposed on the entire estate if the estate exceeds the exemption amount. Due to adjustments to the bracket structure in the new law, those estates that are valued at more than 105% of the New York basic exclusion amount will pay the same tax as they would have under the prior law.

For example, assume a person dies as a New York domiciliary on May 1, 2020, with an estate valued at $6.2 million and when the New York basic exclusion amount will be $5,850,000. Because the value of the estate exceeds 105% of the then available New York basic exclusion amount ($5,850,000 x 105% = $6,142,500), the estate will be subject to New York estate tax on the entire $6.2 million. The New York State estate tax bill will be $535,600, which is the same as the amount that would have been due under the old law. In contrast, if an individual had died with an estate valued at $5.1 million, her estate would owe no New York estate tax under the new law because the New York basic exclusion amount will be applied to her estate. Under the old law, however, the decedent's estate would still have owed $402,800 in New York estate tax.

A significant change in New York law involves certain gifts made during a decedent's lifetime. New York has no gift tax. Prior to 2014, lifetime gifts were not subject to gift tax or included in the New York gross estate. Under the new law, gifts made within three years of a decedent's death were added back, increasing the New York gross estate, and thus potentially being subject to New York estate tax at a maximum rate of 16%. This was scheduled to sunset in 2019, but it was extended through 2026 as part of the New York Fiscal Year 2020 Budget.

However, the add back does not include gifts made (a) before April 1, 2014, (b) between January 1, 2019 and January 15, 2019, (c) on or after January 1, 2026, or (d)gifts made during a time when the decedent was not a resident of New York State. Moreover, since New York does not have a gift tax, it is usually more beneficial for New Yorkers to give away assets during their lifetimes in order to potentially avoid New York estate tax attributable to those assets at their deaths.

These changes in New York law present further estate planning opportunities using bypass trusts to set aside New York's basic exclusion amount (approximately $5,850,000 after January 1, 2021 for New York State estate tax purposes). The proper disposition of the basic exclusion amount is the cornerstone of estate planning for married couples. Significant tax savings can be achieved if the basic exclusion amount is set aside at the death of the first spouse, therefore "bypassing" estate taxation at the death to the surviving spouse. In addition, any growth that occurs in the trust also escapes estate taxation at the death of the surviving spouse. As New York's basic exclusion amount rises, the potential tax benefits from employing bypass trusts increase as well.

If you wish to discuss any aspect of the new law as it relates to your estate planning, please contact one of the lawyers in the Private Client Services Department at Proskauer.

Connecticut Estate Planning Updates

Connecticut Raises Basic Exclusion Amount Passing Free From Estate and Gift Tax to $5,100,000 in 2020

As of January 1, 2020, the Connecticut basic exclusion amount, currently $3,600,000, will increase to $5,100,000 per person. The Connecticut basic exclusion amount is set to increase to $7,100,000 starting in 2021 and to $9,100,000 starting in 2022. Starting in 2023, the Connecticut basic exclusion amount is set to equal the federal exemption amount.

Time Period	Connecticut Basic Exclusion Amount From Estate and Gift Tax
Prior to January 1, 2018	$2,000,000
January 1, 2018 to December 31, 2018	$2,600,000
January 1, 2019 to December 31, 2019	$3,600,000
January 1, 2020 to December 31, 2020	$5,100,000
January 1, 2021 to December 31, 2021	$7,100,000
January 1, 2022 to December 31, 2022	$9,100,000
2023 and Beyond	Equal to the federal exemption amount

The increased basic exclusion amounts increase the potential tax benefits from employing bypass trusts in estate plans. The proper disposition of the basic exclusion amount is the cornerstone of estate planning for married couples. Significant tax savings can be achieved if the basic exclusion amount is set aside at the death of the first spouse, therefore "bypassing" estate taxation at death to the surviving spouse. In addition, any growth that occurs in the trust also escapes estate taxation at the death of the surviving spouse.

Connecticut Enacts an Act Concerning Adoption of the Connecticut Uniform Trust Code

On July 12, 2019, Governor Ned Lamont signed Public Act 19-137, "An Act Concerning the Uniform Trust Code," which goes into effect on January 1, 2020. The Act adopted (1) the Connecticut Uniform Trust Code, (2) the Connecticut Uniform Directed Trust Act, (3) the Connecticut Qualified Dispositions in Trust Act and (4) amendments to existing trust statutes. Overall, the Act provides additional tools and flexibility for Connecticut residents seeking to create trusts.

Connecticut Uniform Trust Code

The Connecticut Uniform Trust Code provides more comprehensive statutes on the creation, administration, modification and termination of trusts in Connecticut. While these statutes provide clarity and additional tools to fiduciaries, they also expand notice requirements to the beneficiaries of a trust.

Connecticut Uniform Directed Trust Act

With the enactment of the Connecticut Uniform Directed Trust Act, a trust agreement can now bifurcate the duties of a Trustee into two or more separate roles. This allows for greater flexibility in the administration of a trust.

Connecticut Qualified Dispositions in Trust Act

The Connecticut Qualified Dispositions in Trust Act allows for the creation of a self-settled domestic asset protection trust (a "DAPT") in Connecticut. A DAPT essentially allows a person to create a trust to protect his or her assets from most future creditors while retaining the benefits of those assets. In order to create a DAPT in Connecticut, (1) Connecticut law must govern the validity, construction and administration of the trust, (2) the trust must be irrevocable, (3) the trust must contain a spendthrift clause and (4) the trust must appoint a "qualified trustee." A "qualified trustee" can be any individual (other than the person creating the trust) who is a resident of Connecticut or an entity authorized to act as trustee under Connecticut law. Although the trust must be irrevocable, the person creating the trust can be a beneficiary of the trust and can retain control over various aspects of the trust. If structured properly, a DAPT can be an attractive option for an individual to protect his or her assets.

Amendments to Trust Statutes

Among other amendments, the Act now allows for the creation of a dynasty trust in Connecticut by extending the rule against perpetuities from 90 years (generally) to 800 years. As a result, an irrevocable trust can continue in existence for 800 years, which offers planning opportunities for a client seeking to create a multi-generational trust. Prior to the enactment of this amendment, a Connecticut resident who desired to create a dynasty trust had to create the trust in another state, which may have increased the administrative costs associated with the trust. Note that this amendment does not apply to trusts created before January 1, 2020.

Pass-Through Entity Interests

A decedent who is a nonresident of Connecticut but owns real or tangible personal property in Connecticut is subject to estate tax in Connecticut. Connecticut recently amended Connecticut General Statutes §12-391(e)(2)(B) to provide that any real or tangible personal property owned by a pass-through entity (a partnership, an S corporation, a limited liability company taxed as a partnership or S corporation for federal income tax purposes or a single member limited liability company that is disregarded for federal income tax purposes) will be treated as personally owned by the decedent in proportion to the decedent's constructive ownership in the pass-through entity if (1) the entity does not carry on a business for the purpose of profit and gain, (2) the ownership of the property by the entity was not for a valid business purpose or (3) the property was acquired by other than a bona fide sale for full and adequate consideration and the decedent retained any power with respect to or interest in the property that would bring such property within the decedent's federal gross estate.

Are Stretch Inherited IRAs in Danger?

Implications of the SECURE Act on Estate Planning With Retirement Accounts

On May 23, 2019, the House of Representatives passed the Setting Every Community Up for Retirement Enhancement Bill of 2019 (H.R. 1994) (the "SECURE Act"), which is expected to pass the Senate in 2019 or soon after. The SECURE Act makes several changes to the rules governing IRAs and other retirement plans. While some of these changes benefit plan owners, at least one has a dramatic negative effect: the SECURE Act eliminates the "stretch" IRA, a structure that allows a non-spouse beneficiary of an inherited IRA to "stretch" IRA treatment of assets over his or her lifetime by taking required minimum distributions based on his or her own life expectancy. This change would nullify the estate plans of individuals who have relied on stretch treatment in leaving IRA assets, including Roth and converted Roth IRA assets, for their children, grandchildren and other non-spouse beneficiaries.

In this article, we discuss current laws governing retirement plans and compare them to the provisions of the SECURE Act with the greatest impact on IRA estate planning (in particular, the elimination of the stretch IRA). For simplicity, we will use the term "IRA" throughout this article, but we note that these changes generally apply to other retirement plans, including 401(k) plans and profit sharing plans.

I. Current Law: Contributions, Required Minimum Distributions and Early Withdrawals

A. Contributions to Traditional IRAs

Under current law, an owner of a traditional (i.e., non-Roth) IRA may make contributions to such IRA until reaching age
70½ (subject to income-based contribution limits each year).

B. Penalty for Withdrawals Before Age 59½

Under current law, withdrawals from an IRA prior to the owner reaching age 59½ are subject to penalties for early withdrawal (subject to some exceptions).

C. Required Minimum Distributions of IRA Owners

Presently, each owner of an IRA must begin taking annual required minimum distributions ("RMDs") from his or her IRA by the "required beginning date," which is generally April 1 of the calendar year following the year of the owner's 70½ birthday. There is an exception for some individuals who continue working past their required beginning dates and are enrolled in their company's pension plan or 401(k) plans, but this exception does not apply to IRAs.

Once an IRA owner reaches his or her required beginning date, RMDs are calculated based on the value of the IRA and the IRA owner's life expectancy. For these purposes, the owner's life expectancy is set forth in tables provided by the IRS in Publication 590-B, Appendix B. Most IRA owners will use the "Uniform Lifetime" Table of such publication (Table III). (This table actually reflects the combined life expectancy of the IRA owner and a fictional person who is 10 years younger than the owner.) Per proposed regulations issued in November 2019 (REG 132210-18), these tables will be updated in 2020 or later to account for longer life expectancies. This article, however, assumes the current rules regarding life expectancy.

An IRA custodian is required to provide the IRA owner with his or her RMD each year or to offer to calculate it. To calculate an owner's RMD, the owner (or custodian) must find the correct table in Publication 590-B and divide the factor next to the owner's age by the balance in his or her IRA on December 31 of the previous year. For example, for a 72-year-old owner of an IRA worth $1 million last December 31, the distribution period provided in the applicable table is 24.4. Dividing
$1 million by 24.4, the owner (or IRA custodian) would determine that the owner must withdraw $40,984 for that year. Note, however, that if an IRA owner has a spouse more than ten years younger who is the beneficiary of the IRA, he or she will be required to withdraw less each year.

D. Required Minimum Distributions From Inherited IRAs

Upon the IRA owner's death, the IRA passes to the beneficiaries designated by the IRA owner, and becomes an "inherited IRA." At such point, the RMD rules depend on the then-beneficiary's relationship to the deceased IRA owner (i.e., surviving spouse or other beneficiary), and whether or not the beneficiary is an individual or entity (e.g., a trust or charitable organization).

1. Surviving Spouse Beneficiaries

A surviving spouse has the option to treat an inherited IRA as his or her own (i.e., roll over the inherited IRA into one where he or she is treated as the owner) rather than as an inherited IRA. This means the spouse can make contributions to the IRA, and he or she will be subject to the same RMD rules as the original owner (i.e., the spouse will need to take RMDs after he or she turns 70½, and such RMDs will be calculated using the life expectancy tables in IRS Publication 590-B).

2. Individual Non-Spouse Beneficiaries—the "Stretch" IRA

By contrast, a non-spouse beneficiary may not treat the inherited IRA as his or her own. This means the beneficiary may not make contributions to the IRA, and must begin taking RMDs immediately, regardless of whether or not the beneficiary has attained age 70½. Although RMDs are immediately mandatory, an individual who qualifies as the "designated beneficiary" of an inherited IRA can take RMDs based on his or her own life expectancy (also set forth in IRS Publication 590-B). This is known as a "stretch" IRA, because the treatment as an IRA (in particular, the tax-deferred growth within the IRA) is stretched out over the designated beneficiary's lifetime.

The designated beneficiary of a particular IRA is determined on September 30 of the year following the IRA owner's death, and can include any *individual* named as beneficiary by the IRA owner. Prior to such date, clients can take actions to control who will be the designated beneficiary of the soon-to-be inherited IRA. For example, an IRA left to the owner's three children can be split into three separate inherited IRAs, each of which will have a different child as designated beneficiary. Or, a primary beneficiary with a shorter life expectancy (e.g., a child) can disclaim his interest in the IRA in favor of the contingent beneficiary (e.g., a grandchild) to take advantage of the contingent beneficiary's longer life expectancy as designated beneficiary.

We note that an inherited IRA with no designated beneficiary (i.e., if the beneficiary is a trust or charity) may be ineligible for stretch treatment, and in that case, is subject to an accelerated withdrawal period of 5 years. Nevertheless, certain properly structured trusts are eligible for stretch treatment.

The above rules apply to Roth IRAs the same way they apply to individual IRAs—although the *owner* of a Roth IRA does not need to take RMDs during his or her lifetime, the designated beneficiary of an inherited Roth IRA must take RMDs based on his or her life expectancy. The main difference between traditional and Roth IRAs in this context is that the RMDs from an inherited Roth IRA are not subject to income tax, while the RMDs from a traditional inherited IRA are taxable to the designated beneficiary.

II. The SECURE Act

The SECURE Act revises the above-discussed rules in several respects. Below, we have summarized the changes most relevant to estate planning and discussed some of the potential consequences for clients engaging in estate planning with their IRAs.

A. Contributions to Traditional IRAs

The SECURE Act repeals the maximum age for making contributions to a traditional IRA (currently 70½). This allows individuals to continue contributing pre-tax dollars into the tax-favorable IRA environment indefinitely, and is a clear improvement over current rules.

B. Penalty-Free Withdrawals for Birth or Adoption

The SECURE Act adds an exception to the list of penalty-free withdrawals from an IRA prior to reaching age 59½—in the event of a birth or adoption, a penalty-free withdrawal of up to $5,000 may be taken within one year of the birth or finalization of adoption. (While free from penalties, this withdrawal will still be subject to income tax.) This is a clear benefit for IRA owners starting families.

C. Required Minimum Distributions for IRA Owners

Under the SECURE Act, the age when IRA owners must take RMDs has been raised from 70½ to 72. This eliminates the current deadline for the owner to take his or her first RMD (April 1 of the year following the year when the IRA owner turns 70½), which is expected to simplify compliance with the RMD rules and cut down on errors in administration.

D. Required Minimum Distributions From Inherited IRAs—Elimination of the "Stretch IRA"

1. Surviving Spouse Beneficiaries

RMD rules for a surviving spouse inheriting an IRA (including a Roth IRA) remain the same under the SECURE Act as current law.

2. All Non-Spouse Beneficiaries—Ten-Year Rule and Elimination of the "Stretch" IRA

Under the SECURE Act, subject only to a few exceptions, all inherited IRAs (including Roth IRAs) for non-spouse beneficiaries must be distributed by December 31 of the year containing the tenth anniversary of the IRA owner's death. This proposed "ten-year rule" effectively wipes out stretch IRAs. It will accelerate income tax liability on IRA assets by decades, and swiftly (within 10 years) remove all IRA assets from the tax-deferred IRA environment. Under this proposal, there are no distinctions between individual beneficiaries, properly drafted trusts and other entities (e.g., charities)—all IRA assets are subject to the same ten-year rule.

There are, however, some exceptions to the ten-year rule. As discussed above, a surviving spouse beneficiary will still be permitted to roll over the inherited IRA and treat it as his or her own IRA. In addition, beneficiaries who are disabled or have a chronic illness, as well as minor children of the IRA owner (as long as they are still minors under state law), are exempt from the ten-year rule. Finally, IRAs that have already been inherited are grandfathered and thus free from the SECURE Act requirements (see below).

Take the following example to illustrate the effects of the new ten-year rule:

Under *current law*, a 50 year-old designated beneficiary of an inherited IRA has a life expectancy (and thus, an IRA distribution period) of 34.2 years. Thus, for an IRA worth $1 million, said beneficiary's RMD in the current year would be $29,240 ($1 million divided by 34.2). By contrast, a 21-year-old designated beneficiary of a $1 million IRA would have a distribution period of 62.1 years, and thus a current RMD of $16,103.

Under the *SECURE Act*, both the 50-year-old and the 21-year-old designated beneficiaries would be subject to a distribution period of 10 years (the ten-year rule), a striking difference in the amounts of time these beneficiaries would be permitted to leave assets in their inherited IRAs. It appears (but is not explicitly stated in the SECURE Act) that a beneficiary would be permitted to leave all the IRA assets in the IRA for the full 10 years prior to the withdrawal deadline, if they wanted to achieve maximum tax deferred growth.

3. "Grandfathered" Stretch IRAs

An IRA inherited from a decedent who died on December 31, 2019 or earlier is not subject to the ten year rule. Accordingly, someone who is already a designated beneficiary of an inherited IRA may continue to take RMDs over his or her lifetime.

III. What Should IRA Owners Do in Response to the SECURE Act?

If you engage in estate planning using IRAs, you should contact your estate planning attorney to discuss the impact the SECURE Act could have on your estate plan. In many cases, no action will be warranted until and unless the SECURE Act actually passes. At that time, many IRA owners will want to engage in income tax planning to take advantage of the extended deadline for taking RMDs and the repeal of the contribution cutoff at age 70½.

In addition, many who have relied on stretch treatment in leaving IRA assets to their beneficiaries (including by effecting Roth conversions) should revisit their plans. In addition, if you have named a trust as a beneficiary of an IRA, you should revisit this designation and/or the terms of the trust—since no beneficiary can achieve stretch treatment for an inherited IRA (regardless of qualification as a "designated beneficiary"), there may be changes you may wish to make to existing trusts.

Finally, IRA owners with charitable goals should consider shifting charitable gifts from other sources (e.g., wills, trusts and lifetime gifts) to their IRAs. Tax-exempt IRAs are already an efficient method of charitable gifting, because the tax deferral on the IRA becomes permanent when transferred to a tax-exempt charity. Moreover, the IRA owner will receive an estate tax deduction for IRA assets left to charity. Thus, the elimination of stretch treatment for non-charitable beneficiaries only increases the IRA's attractiveness as a charitable gifting vehicle.

If you wish to discuss any aspect of the new laws as it relates to your estate planning, please contact one of the lawyers in the Private Client Services Department at Proskauer.

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