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**What the SECURE Act Means to Retirement Planning**
By James P. Freeman

Much to the surprise of many government officials and retirement experts, after languishing in the summer heat for months in a near-death spiral unrelated to retirement policy, Congress passed, and President Trump signed into law last December the SECURE Act. The new law is more than a new law. It is the most consequential statement made on retirement policy -- hence, planning -- in a generation. If you are in retirement or about to retire, it will likely affect you. And that is a good thing.

The Act is premised on an unrefuted and unresolved predicament: Americans don't save enough.

As The Wall Street Journal described it, passage of the new legislation is a move "designed to help Americans save more." Citing figures by the nonprofit Employee Benefits Research Institute, the Journal writes that Americans between the ages of 35 and 64 "face a retirement savings shortfall of $3.83 trillion," with 41 percent of households "projected to run short of money in later life."

Critical to living in retirement years today is this process: the accumulation of enough savings, of which drives the generation of sufficient income, from which the cash distribution can allow one to live a standard of living in post-retirement similar to one lived in pre-retirement. The Silent Generation and Boomer Generation were natural-born savers. Later generations are not. (Almost 40 percent of American adults wouldn't be able to cover a $400 emergency with cash, savings or a credit card charge that they could quickly pay off, a recent Federal Reserve survey found.)

Consider more alarming evidence regarding retirement and pension plans that likely will not build adequate savings for future retirees. This assumes, of course, the mere existence of such plans.

Today, fewer than 17 percent of private employers offer a pension plan to workers; the average plan is underfunded by 15 percent. Additionally, while 85 percent of private employers with over 100 workers offer a retirement plan, just 53 percent of private employers with fewer than 100 workers offer a retirement plan. And far too few workers are participating in plans when they have access to them. Recall that when the 401(k) (defined contribution) became law in 1978, it was intended to supplement pension plans (defined benefit), not supplant them. But that is exactly what happened over the last forty years. Most job creation occurs in the private sector, mostly in small business. And as the Small Business Administration confirms, small companies create 1.5 million jobs annually and account for 64 percent of new jobs created in the United States. (28 million small businesses make up 99.7 percent of all U.S. firms.)

Public-sector retirement systems are demonstrably more precarious than their private-sector cousins. Public pension plans are, on average, unfunded by about 28 percent or nearly $5.2 trillion dollars (collectively, at state and local levels). Some research suggests, however, that the unfunded portions are closer to 40 percent, given overly optimistic investment return assumptions, accounting maneuvers and actuarial predictions. And notwithstanding the taxing authority of state and municipal entities (which presupposes a theoretical unlimited revenue source), they are also burdened by massive bonded debts and exploding healthcare costs.

Data illuminate trends and these trends are troubling.

The SECURE Act -- Setting Every Community Up for Retirement Enhancement Act -- cannot by itself immediately arrest these trends. In fact, the new legislation cannot change the biggest demographic trend burdening America's fiscal health -- the graying of the population. Every day for the next nine-plus years 10,000 Americans will reach the age of 65, generally considered retirement age, a trend that began in 2011. (#ThankYouBoomer!) Rather, more modestly, the SECURE Act is intended to modify behaviors within demographic groups, including Gen X and Millennials. Behavioral changes may beget healthier trend lines.

Accordingly, the Act seeks two outcomes to boost savings. The first, increase Americans' access to work-based retirement plans, and, the second, help Americans' savings last longer. There are 29 key provisions in the law. Many will have a direct impact on workers and retirees.

One of the more novel changes will be immediate. Retirement plans are going to have to show how much income an account will generate upon retirement. In the past, account statements showed account balances, along with all sorts of ancillary, if not confusing information. Now, such periodic statements are required to display the amount of income the balance will generate. Some believe this new data point will inspire people to contribute more into these plans and borrow less against such plans.

Two other changes will also be felt instantaneously. To help workers catch up with savings goals, a person who works past the age of 70 ½ can now contribute to an Individual Retirement Account (IRA) indefinitely so long as the worker derives income from work. In addition, mandated withdrawals from IRAs have now been delayed until a person reaches the age of 72, instead of 70 ½.

The effects of other provisions will not be felt for years.

Annuities will now be allowed to be included in 401(k) plans, to provide an income stream within a given plan. This measure is not without controversy as some annuities have a negative perception surrounding their complexities and fees. Nonetheless, a countervailing view centers around this fact: most people who participate in a work-based retirement plan receive little, if any, advice on how to manage the money in their account. These workers have no idea how to choose investments, let alone how to generate an efficacious income plan. So, the reasoning goes, providing a mechanism designed to generate even some steady income is better than the alternative -- which is, probably, no alternative.

Among the reasons small companies do not offer retirement plans include the cost, the liability, and the time consumption. The new law allows small companies to band together to set up 401(k) plans mutually, and provides certain tax credits for the establishment of these types of plans. Furthermore, the act addresses the "gig economy." It makes it easier for part-time employees to access retirement plans now. Time will tell if there is significant growth in so-called "multiple employer plans" or MEP. Still, some estimates forecast that the $5.8 trillion 401(k) market could grow by $1 trillion dollars within the next five years because of these changes.

Much talk about the SECURE Act centers around so-called “Stretch IRAs.” A stretch IRA was an estate planning strategy that applied to an IRA inherited by a non-spouse beneficiary. By using this strategy, an IRA could be passed on from generation to generation, taking advantage of tax-deferred and/or tax-free growth of the assets within it; the timeframe is literally stretched. The Act eliminates the stretch IRA. Simply stated, the beneficiary must now take the payments within a ten-year period. This means that some beneficiaries will face new tax considerations. Naturally, financial advisors and legal experts will be looking at ways to blunt these expected tax implications by employing new tactics and strategies.

A review of Investment Company Institute (ICI) data suggests that the SECURE Act changes will likely have an impact on one in three retirees using traditional IRAs. Over 60 million Americans own at least one IRA. Or put another way, 41 percent of Americans own a traditional IRA or a Roth IRA. Furthermore, ICI data also suggest that 30 percent of traditional IRA holders were likely only making withdrawals from these accounts because they were required by law to do so, not necessarily because they needed to do so. And perhaps encouraging to policymakers, the data lead some to believe that one in three may delay the age at which they take withdrawals. The hope is that retirees make more contributions than withdrawals.

Just the same, what is not subject to speculation is that it will take many years, if not decades, to determine the success of the new law. How does the SECURE Act affect individual workers and retirees?

Consult a trustworthy and experienced retirement planning professional regarding all investment, tax, and estate planning matters.

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