

# Accettura & Hurwitz

Estate & Elder Law

32305 Grand River Avenue  
Farmington, MI 48336

Phone: 248.848.9409 | Fax: 248.848.9349 | [www.elderlawmi.com](http://www.elderlawmi.com)

Farmington Office: 32305 Grand River Avenue, Farmington, MI 48336

Royal Oak Office: 1022 S. Washington, Royal Oak, MI 48067

Plymouth Office: 905 W. Ann Arbor Trail, Plymouth, MI 48170

Brighton Office: 225 East Grand River Ave., Brighton, MI 48116

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P. Mark Accettura, Esq.  
[maccettura@elderlawmi.com](mailto:maccettura@elderlawmi.com)



Samuel A. Hurwitz, Esq.  
[shurwitz@elderlawmi.com](mailto:shurwitz@elderlawmi.com)



Rebecca A. Coyle, Esq.  
[bcoyle@elderlawmi.com](mailto:bcoyle@elderlawmi.com)



Wendy K. Turner, Esq.  
[wturner@elderlawmi.com](mailto:wturner@elderlawmi.com)



Austin Accettura  
Law Clerk  
[aaccettura@elderlawmi.com](mailto:aaccettura@elderlawmi.com)



Kimberly G. Rapp  
Office Manager  
[kgrapp@elderlawmi.com](mailto:kgrapp@elderlawmi.com)

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## SPRING 2020 UPDATE

As is our custom, this semiannual correspondence is intended to keep you abreast of developments in estate and elder law. The following is a brief summary of noteworthy developments since our last communication:

### Are You Prepared? We Are!

As of this writing the Coronavirus dominates every aspect of our life. Our work, family, jobs, education, religious observation are all affected. Naturally, our greatest fear is that we or one of our loved ones may become sick, or worse.

It is important that your estate plan be in order.

- Do your powers of attorney reflect the person or persons you most want to handle your financial and health care decisions if you are not able?
- Have your wishes changed as to who you want to inherit and when?
- Have you purchased a new home or vacation property that has not been transferred to trust?
- Are your financial assets funded into your trust?

Now is the time to answer these important questions and to take appropriate action to see that your wishes are properly reflected.

 We are available to speak with you by phone to discuss your concerns.

If documents need to be prepared, we will send them to you by overnight mail for signing. The State Bar of Michigan has proscribed procedures for signing, witnessing and notarization that do not require us to be in physical proximity to you at the time of signing, including Facetime or other virtual platforms.

### The New SECURE Act and your IRAs

The Setting Every Community Up for Retirement Enhancement (SECURE) Act was quietly passed into law December 20, 2019. The SECURE Act is the most significant change to 401(k), 403(b) and IRAs (for simplicity, we will refer to just "IRAs") in memory.

### Please Say Nice Things About Us!

If you are unhappy with our service please contact our office and speak with our office manager, Kim Rapp, and we will do our best to remedy the issue. If you are happy with our service, please visit our Facebook page called "Accettura & Hurwitz: Estate and Elder Law" and/or Google Review and give us a good review so others will know of our good work.

This Newsletter is considered general information and is not intended to constitute individual legal advice. Please contact us if you think the information herein impacts you directly. We look forward to speaking with you soon. Please visit our website [www.elderlawmi.com](http://www.elderlawmi.com)

Very truly yours,

ACCETTURA & HURWITZ

P. Mark Accettura

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Austin R. Accettura  
Law Clerk

The most significant change is to limit the “stretch” provisions to only ten years for IRAs (including Roth IRAs) inherited by most non-spouse beneficiaries. The Act is effective for IRA owners who die after 2019. Prior to the Act, non-spouse beneficiaries could convert a decedent’s IRA to an “inherited IRA” and stretch distributions over their life expectancy. For example, under the old law, a beneficiary age 50 could stretch their distribution over a period of up to 34.2 years after the IRA owner’s death.

Under the new ten-year rule, all amounts must be distributed by December 31 of the year that contains the 10th anniversary of the date of death. Annual distributions are not required (the beneficiary can choose to take any portion or none of their interest in any of the first nine years) as long as long as all amounts are distributed within the ten-year period.

The ten-year distribution rule does not apply to surviving spouses, disabled or chronically ill beneficiaries, beneficiaries that are not more than ten years younger than the deceased IRA owner, or minor children.

A surviving spouse can still use the old life expectancy payout or roll their spouse’s IRA into his or her own IRA and postpone required distributions until age 72 (increased from 70 ½ under the pre 2020 rules).

Disabled beneficiaries are entitled to the old life expectancy payout rules. However, the SECURE rules would apply to the beneficiaries of a disabled beneficiary upon their death.

For minor children (under age 18 in Michigan) of the IRA owner (but not grandchildren) the ten-year rule begins to apply the year after the child reaches the age of majority (or age 26 if they are still in school).

In limited circumstances, the new rules also apply to IRA owners who die before 2020. For example, if an IRA owner who dies before 2020 leaving to a 50 year old child (with a 34.2 year life expectancy) who in turn dies fifteen years after his or her parent,

the beneficiaries of the 50 year old must take their distribution within ten years of 50 year old’s death. Prior to the SECURE Act, grandchildren could step into their parent’s shoes and take the remaining years (in this case 19.2 years) of their parent’s life expectancy.

We believe that after the legislative bugs have been worked out of the Act, we will be recommending that married participants name their revocable trust as contingent beneficiary (the surviving spouse is still the recommended primary beneficiary), and that unmarried participants name their trust as primary beneficiary rather than children directly. Naming your trust allows your trustee to hold IRA distributions in trust for up to ten years to protect against contingencies like a child’s divorce, bankruptcy, or addiction.

### Coronavirus Aid, Relief and Economic Security (CARES) Act

The CARES Act was signed into law to help provide financial stability and relief for individuals and businesses affected by COVID-19. The bill is very broad and addresses a number of areas and industries. The following are a couple of the provisions that we believe may be relevant to you, our estate and elder law clients:

- For those who are diagnosed with COVID-19, have a spouse or dependent who is diagnosed, or who have experienced adverse financial consequences as a result of COVID-19, including quarantines, layoffs, business closures or child care responsibilities, the Act:
- ① Eliminates the 10% early (pre-age 59 ½) withdrawal penalty for withdrawals up to \$100,000 from qualified retirement accounts; and

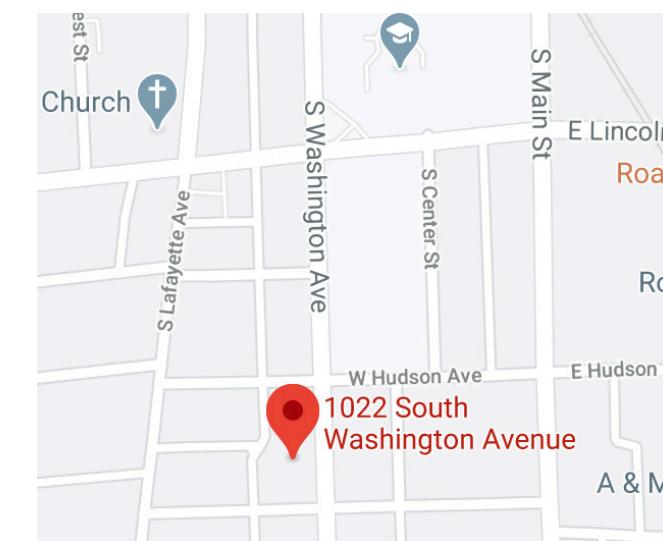
- ② For 2020, increases the amount that can be taken as a loan from a qualified retirement plan from \$50,000 to \$100,000
- Temporarily waives the required minimum distribution (RMD) requirement for 2020 distributions as well as 2020 distributions attributable to 2019. Individuals do not need to meet the qualifying criteria described above for purposes of this RMD relief.

### The 2020 Numbers

- The annual gift tax exclusion is \$15,000. For most, gifts in excess of \$15,000 merely reduce the \$11,580,000 lifetime exclusion and do not result in tax to the donor or the donee. *For example, a gift of \$15,000 would reduce the individual’s lifetime exclusion from \$11,580,000 to \$11,579,000.*
- The federal estate tax exemption is \$11,580,000. A married couple can “port” any unused portion of the estate and gift tax exemption to the survivor’s estate tax return. This means that a married couple can pass up to \$23,160,000 estate tax free by filing an estate tax return and electing portability on the first spouse’s death. *For example, if the first spouse to die had an estate of \$1 million and an estate tax return was filed electing to port that spouse’s unused exemption of \$10,580,000 (\$11,580,000 less \$1,000,000), the surviving spouse would have an effective exemption of \$22,160,000 (\$11,580,000 plus \$10,580,000).*
- The official average cost for a nursing facility is \$8,618. However, expect something in the \$10,000 to \$12,000 in the Detroit Metropolitan area

### Call Us Immediately When...

Call us from the hospital *before* you are discharged to “rehab.” While hospital discharge planners may suggest a facility, it is ultimately your right to choose the nursing home (nursing homes provide both rehabilitation and long-term care services) where you wish to continue your recovery. Hospital discharge planners often choose facilities that only accept Medicare. Since at least 90% of rehab facilities accept both Medicare and Medicaid, it would be a shame to accept a discharge to a facility that you will have to leave when your Medicare days (potentially up to 100 days) run out. **Also, please call us if we haven’t seen you since 2011.**



The new location dramatically reduces the distance our clients need to walk. It is street level (no more lobby or elevator), has free street parking right outside the front door, and is barrier free. We are working on signage, so for now just look for the address. We hope to see you soon!