Retirement Accounts

Selected
Planning Opportunities,
Pitfalls and
Developments

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Rollovers to Qualified Plans

- Qualified Plans are able to accept eligible rollovers from other qualified plans and IRAs.
- If a qualified plan accepts rollovers, incoming funds must:
  - be permissible rollovers allowed by the distributing plan's document,
  - come from a qualified plan or IRA,
  - be the type of funds eligible to be rolled over, and
  - be paid into the new plan no later than 60 days after the employee receives the funds from the old plan or IRA.

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Rollovers to Qualified Plans

- The plan administrator must take reasonable steps to evaluate whether the rollover is permissible.
- The concern is that the acceptance of an invalid rollover contribution could jeopardize the plan's qualification.
- Section 1.401(a)(31)-1, Q&A-14 – For "Plan qualification purposes," an invalid rollover will be treated as a valid rollover if the plan administrator for the receiving plan reasonably concluded that the contribution was a valid rollover contribution.

Rollovers to Qualified Plans

- Rev. Rul. 2014-9 provides simplified due diligence procedures for a plan administrator to confirm the sending plan or IRA's tax-qualified status and reasonably conclude that a rollover contribution is valid.
- Plan administrators may incorporate the procedures outlined in the Revenue Ruling when accepting rollover contributions.

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Tax Deductibility of Investment Expenses Relating to an IRA

- Separately paid investment expenses may be deductible under IRC Section 212 -*Expenses for Production of Income*.
- The IRS has privately ruled that separately-paid investment advisory fees are not an additional IRA contribution and are deductible under Section 212 of the IRC. – See PLR 8830061.
- PLR 201104061 affirms that the payment of IRA 'wrap fees' from assets outside the IRA are not considered deemed contributions to the IRA.

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Tax Deductibility of Investment Expenses Relating to an IRA

- Different treatment for brokerage commissions and similar transactional costs (Rev. Rul. 86-142)
  - Payment of such costs is considered a contribution to the IRA and is non-deductible under IRC Section 212.
  - The distinction is that transactional costs are not recurring or administrative overhead expenses, but rather are intrinsic to the value of the underlying IRA assets.

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Tax Deductibility of Investment Expenses Relating to an IRA

- Question as to the applicability of these rules to a ROTH IRAs under IRC Section 265

- It is impermissible to have retirement accounts pay fees and expenses associated with taxable accounts or other investments.

Charitable Giving with Retirement Accounts (at Death)

- There is no “step-up in basis” for retirement assets included in a decedent’s gross estate. See Internal Revenue Code (“IRC”) Section 1014(c).
- Distributions from retirement accounts are considered “Income in Respect of a Decedent” (“IRD”).
- Beneficiaries of retirement accounts will generally include future distributions in their income, taxed at rates applicable to ordinary income. See IRC Section 691.

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Charitable Giving with Retirement Accounts (at Death)

- Naming a qualified charity as a beneficiary of a retirement account may result in tax benefits.

- Allocate retirement assets to the charity, which is income tax-exempt, and allocate other assets to other individuals subject to income tax.

- Example

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Charitable Giving with Retirement Accounts (at Death)

- Naming a charity <u>and</u> other individuals as IRA beneficiaries may lead to unintended consequences.
- Use of the ‘life expectancy payout’ method for inherited IRAs may be lost if not all of the beneficiaries are “Designated Beneficiaries”.
- Solutions:
  - Separate Account Rule
  - Complete Distribution Method
  - Creation of separate IRAs

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Lifetime Charitable Giving
Qualified Charitable Distribution Rules

- Qualified Charitable Deductions ("QCD") rules have **expired** at the end of 2013!

- However, Congress has repeatedly extended the rules in the past.

- H.R. 4619 (later included as part of H.R. 4719) would amend the Internal Revenue Code to reinstate and make permanent the QCD rules.

Lifetime Charitable Giving
Qualified Charitable Distribution Rules

- Only applies to IRAs, not Employer Plans
- IRA Owners age 70 ½ were eligible to exclude from taxable income certain distributions that were made directly to qualifying charities.
- The distribution counts towards satisfying the IRA owner's minimum required distribution.

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Lifetime Charitable Giving
Qualified Charitable Distribution Rules

- Maximum exclusion is $100,000 per taxpayer in any applicable year.

- Potential tax benefits in an number of situations:
  - Taxpayers who do not itemize deductions;
  - Taxpayers receiving Social Security Income;
  - Reduction of phase-out of itemized deductions;
  - Reduction of 3.8% Medicare Tax on “net investment income”.

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The Most Common Retirement Plan Mistake!

- Beneficiary Designations: The often forgotten important piece of the puzzle
- Retirement Accounts are non-probate assets – unless the estate is named as the beneficiary (and that is generally discouraged)
- The controlling dispositive document is the beneficiary designation form – not the client's Will or Trust documents.

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The Most Common Retirement Plan Mistake!

- Beneficiary designations should be updated periodically, particularly following major life events.
- Beneficiary designations should always be reviewed and considered when a client is updating his or her estate plan.
- I recommend that you obtain the actual beneficiary designation forms from the IRA provider / retirement plan administrator – do not rely on the memory of your client!

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Questions?

Timothy Woodhouse, JD, CPA

Senior Vice President

Director of Trust Services

Acadia Trust, N.A.

207-619-8623

twoodhouse@acadiatrust.com

www.acadiatrust.com

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End Notes

- Timothy Woodhouse has over fifteen years of investment, trust, tax, and estate planning experience. Based in Acacia Trust's Portland office, Tim works with investment and trust clients, providing trust administration and wealth management services. In addition, Tim leads an experienced team of professionals who oversee the delivery of Acadia's investment management advice, personal trust and fiduciary services for high-net-worth individuals, families, endowments and foundations.

  Prior to joining Acadia Trust, Tim was a Senior Portfolio Manager in the Portland office of TD Wealth Management. His experience also includes five years in the Tax Department of a regional accounting firm, working with wealthy families in the areas of income, estate, and gift tax compliance and planning. Tim also spent over two years at a small law firm focusing on employee benefits and estate planning.

  Tim is a Certified Public Accountant and is a licensed attorney in the state of Maine. He is a member of the Maine Estate Planning Council, the Maine Bar Association and the Maine Society of Certified Public Accountants. Tim is a member of the Maine Medical Center Planned Giving Committee. In addition, Tim serves on the Finance Committee of Shalom House, Inc.– a non-profit providing housing and services to adults with severe mental illness.

  Tim is a graduate of the University of Maine, Orono (with highest distinction), and the University of Maine, School of Law (magna cum laude).

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