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Tax & Estate Planning for Your Retirement Savings

WHAT'S INSIDE?

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The Daunting Tasks of an IRA Trust Trustee

An IRA owner should name a trust as his IRA beneficiary only when there is a legitimate and justifiable reason to do so. If an adult beneficiary is otherwise healthy and responsible, and if there is no desire to control assets after death, then naming a person directly as an IRA beneficiary may be a better option. However, in those cases when a trust is necessary, be sure the trustee – the person responsible for following the provisions of the trust and dispersing its assets — *understands the trust and IRA rules.* Otherwise, saddling an inexperienced trustee with such a daunting task can lead to egregious mistakes — *as a recent IRS private letter ruling illustrates.*

Trust Distribution Disaster

PLR 202125007, released by the IRS on June 25, 2021, is another in a long line of botched IRA trust beneficiary horror stories. In this situation, an IRA owner named a trust as IRA beneficiary. After her death, IRA assets were properly moved into a trust-owned inherited IRA. The adult children of the original IRA owner, as trustees and trust beneficiaries, had total control of the assets. The children wanted to trade stocks within the inherited IRA but were informed by the custodian that the existing account could not accommodate their request. So, the trustee children decided to transfer "substantially all" of the inherited IRA assets to a non-qualified (non-IRA) brokerage account, owned by the trust. This action resulted in a taxable distribution — *at trust tax rates!* — of most of the IRA assets.

Once inherited IRA dollars are withdrawn by a non-spouse beneficiary (and a trust is a non-spouse beneficiary), there is no putting them back. Even if the error is discovered within 60 days of the original transaction, a rollover is not allowed, and the distribution is likely taxable. Even though the trustees identified their error several months later and requested that the former IRA dollars be returned (thus avoiding the massive tax hit), this PLR was doomed.

The IRS concluded that:

> *"...once the assets have been distributed from an inherited IRA, there is no permitted method of transferring them back into an IRA. In this case, the assets of IRA X were transferred to a non-IRA account. Accordingly, the assets may not now be transferred to an IRA account."*

Purpose of the Trust?

What was the point of this trust? The adult children had complete control over the funds and could pay the inherited IRA out to themselves at any time (which they erroneously did).

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