

# Estate Planning

## Fast Faxes

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Estate, Tax and Family Wealth Preservation Planning For Advisors

### Price & Farrington

Attorneys and Counselors at Law

12501 Bellevue-Redmond Road, Suite 215

Bellevue, Washington 98005

425-451-3583

Email: pricefarr@aol.com

## IRA RULES CAN STUMP THE PROS

### Complexity Brings Costly Errors

Maybe they should have called them "individual riddle accounts."

The rules and regulations for individual retirement accounts and Roth IRAs are so complex that even professionals in the field have a tough time getting them straight – particularly when it comes to estate planning.

Children or spouses who inherited IRAs are coming into our office asking, "What do I do?" They've gone to an accountant and have gotten one answer, to a lawyer for another answer, and a financial planner for another.

While the arcane rules governing IRAs and estate planning are the sort of things that put most people to sleep, the potential damage from bad advice ought to be a wake-up call for all of us. We're talking about losing 50% or more of the value of a portfolio in some cases.

In one major national magazine, a supposedly authoritative source, we recently read that if an original IRA owner had already started taking minimum distributions, anyone other than a spouse who inherited the IRA from him would be locked into the same payout rate. The fact is, the beneficiary would be able to spread the distributions over his or her life expectancy, thereby prolonging the benefits of tax-favored compounding, as long as distri-

butions are started within a year after the IRA owner's death.

The problems people are having with IRA estate-planning rules are only just starting to come to light. That's because the first generation to have IRAs, parents of baby boomers, is aging and dying, leaving behind a trail of problems.

In many cases, IRA owners don't know they've made errors. Only beneficiaries know the real cost of mistakes.

Some of these errors are made because investors never sought professional advice, perhaps unaware of how nettlesome the IRA rules are. Others, meanwhile, are a result of bad advice.

One client of ours knows the frustration of trying to sort through conflicting advice about an inherited IRA. After her mother died last winter, she sought guidance from the I.R.S., a large brokerage firm and a mutual-fund company about whether or not she needed to start taking distributions from the Roth IRA her mother had left.

She thought she had the answer from a slick, 21 page booklet put out by a major brokerage house. But the advice, that "beneficiaries of a Roth IRA are not subject to an RMD," or required minimum distribution, turns out to be wrong in her case.

Minimum distributions aren't required for original owners of Roth IRAs. But minimum distributions *are* in effect for non-spouse beneficiaries.

The distribution rule is clearly stated in final IRS regulations on Roth IRAs. Non-spouse beneficiaries must begin taking minimum distributions by the end of the calendar year following the year of the IRA owner's death if they want to make the account last for their lifetimes.

If they don't start in that period, the so-called five-year rule kicks in. They have to take all the money out of the Roth by the end of the fifth year after the

Happy  
Father's  
Day!



*"If I knew I couldn't take it with me, I never would have bothered rolling it over."*

year of the original IRA owner's death, or they're subject to a 50% penalty.

Many tax specialists say the blame for such confusion largely falls on Congress. Wading through the regulations is in itself daunting. The regulation booklet on the regular IRA and the Roth published by CCH Inc. runs a couple of hundred pages. About 65 are dedicated to the regulations themselves and the rest include an explanation of the rules.

Some moderate relief may get passed by Congress soon. For example, a provision in the proposed tax law would, among other things, reduce the penalty for heirs who don't take required minimum distributions from an IRA to 10% from 50%.

In the meantime, we strongly suggest you have your clients treat their IRA like a medical condition: go to the experts, get a second opinion, and possibly even a third.

If your client's IRA is sizable and you have even the slightest doubt about their understanding of the law, suggest they hire someone they can hold accountable. You can't hold a magazine accountable for a mistake you made on a multimillion-dollar estate plan. *Think about it!*

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