NP

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What's trending on NP Trusts & Estates

The IRS announced an increase in the HSA contribution limits, traditional IRA beneficiary designations, implications and more. Here's what's trending in estate planning and wealth management.

Estate and Gift Planning

Incapacity: A good reason to fund your trust and name a power of attorney and health care proxy

Some of the most problematic work we do is for families who are caring for an incompetent person. Many would benefit from being moved to an institutional setting, but cannot assent to be moved and do not have a health care proxy or durable power of attorney in place.

In some cases, the situation is also complicated because of the way the person's assets are held. For example, complexities can arise if the individual owns real estate but is not competent to sign a deed to sell it, or if the individual has a solely owned financial account that holds the funds needed to pay for care but is not competent to write checks.

What incapacity planning can one do?

In so many cases, situations like the ones mentioned above can be avoided. If the incapacitated person had transferred assets into a trust with proper trustee provisions, named an agent in a durable power of attorney, and named a health care proxy, the medical, financial, and legal aspects of care would be far less burdensome.

What happens when there is not incapacity planning?

If a person has become incompetent due to dementia, other incapacity, or an accident, the person's care needs can be staggering. If the person's financial assets cannot be easily reached by a trustee or agent under a durable power of attorney to pay for the care, and if the person has not named a health care proxy to make medical and living decisions, the only recourse may be a guardianship or conservatorship action in the Probate Court.

Court proceedings are slow and expensive. Additionally, state law may require that the court appoint a lawyer for the incapacitated person or an independent lawyer to serve in the role of an advisor to the court. These professionals are generally paid with assets of the incapacitated person, causing another drain on family finances.

The lawyer for the incapacitated person may not see eye-to-eye with the family about the kind of care that should be provided to the person or who should pay the care bills, causing additional emotional stress. In addition to the sadness and stress of caring for an incapacitated family member, the family may suffer additional emotional and financial stress arising from the court proceedings. - *Sarah M. Richards*

2020 Health Savings Account (HSA) contribution limits

A Health Savings Account (HSA) is a great way to pay for your current health care needs and to allow for future value growth in your account to plan for anticipated health costs during retirement years.

The IRS has recently announced that HSA contributions limits will increase in 2020. Under a high deductible health plan, an individual with self-only coverage can contribute up $3,550 and an individual with family coverage can contribute up to $7,100 in 2020. These are increases of $50 and $100, respectively, from 2019 contribution limits. There is no change in HSA catch-up contributions ($1,000 for those age 55 or older) from 2019.

For 2020, a high deductible health plan (HDHP) is a health plan with an annual deductible that is not less than $1,400 for self-only coverage or $2,800 for family coverage, and the annual out-of-pocket expenses (deductibles, co-payments and other amounts, but not premiums) do not exceed $6,900 for self-only coverage or $13,800 for family coverage. – *Darrell Kamholz*

Income Tax

Traditional IRA beneficiary designations and implications

The distribution of your Individual Retirement Account ("IRA") assets upon your death depends on whom you have named as a beneficiary.

For purposes of this blog entry, the discussion below assumes the IRA owner died after reaching age 70 ½.

When a spouse is named beneficiary

Naming one's spouse as the beneficiary of an IRA provides many options and flexibility for the surviving spouse. A spouse is the only beneficiary who can choose to rollover the decedent's IRA and treat the IRA as his or her own, which means the spouse can delay taking required minimum distributions ("RMDs") until he or she reaches age 70 ½. The beneficiary spouse can also choose to establish an inherited IRA, which requires him or her to start taking RMDs in the year following the death of the IRA owner, but the RMDs are calculated according to the surviving spouse's age/life expectancy. The surviving spouse can always take a lump-sum distribution, although this will cause the entirety of the distribution to be subject to income tax in the year in which such withdrawal occurs.

When a non-spouse is named beneficiary

A non-spouse beneficiary can either take a lump sum distribution or open an inherited IRA using his or her life expectancy, as determined by his or her age in the year following the year of death of the IRA owner. If multiple beneficiaries are named, they must establish separate inherited IRA accounts by December 31 of the year following the year of death of the IRA owner. If the beneficiaries fail to establish separate accounts by that deadline, distributions to all of the beneficiaries will be based on the oldest beneficiary's life expectancy.

When a charity is named beneficiary

If you are charitably inclined, naming the charity as beneficiary of a retirement account is tax efficient for both the donor and the donee. The charity pays no income taxes upon receipt of the IRA assets, and the IRA will qualify for a full charitable deduction in the IRA owner's estate.

When a trust is named beneficiary

If the trust qualifies as a "look-through" trust, then the RMDs must be paid to the trust over the life expectancy of the oldest trust beneficiary. A "look-through" trust (1) must be valid under state law, (2) must be irrevocable upon the death of the IRA owner, (3) the individual beneficiaries of the trust must be identifiable and (4) trust documentation must be provided to the IRA custodian no later than October 31 of the year following the year of the IRA owner's death. If there are several trust beneficiaries of varying ages, then the ability to maximize the deferral potential of the distributions from the IRA could be lost. It is important to note that it may be possible to "split" beneficiary accounts if the trust creates separate "subtrusts" for each trust beneficiary. If the trust is not a "look-through" trust, then the time period to pay out the IRA is within five (5) years following the year of the IRA owner's death.

When an estate is named beneficiary

Generally speaking, since an "estate" is not an individual, an IRA that names the owner's estate must be paid out within five (5) years following the year of the IRA owner's death. – Lauren Whiting

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