

**From the desk of
Peter S. Muffoletto, C.P.A.**

Problems with IRA's Held in Trust

A question that is often raised is whether an IRA should be directed to a trust so as to inherit your individual retirement account.

In most cases it is not necessary to name trusts as IRA beneficiaries as there is a risk of higher taxes for the heirs by doing so if those funds are not distributed immediately to the ultimate beneficiaries.

Should you set up a trust to be the immediate beneficiary of your IRA distributions it is likely the trust would pay higher taxes on the funds than your heirs would due to the fact that trust tax rates are higher than most individuals' rates. (Tax rates on a trust are 33% for federal purposes when income exceeds \$9,050 compared with \$189,300 for individuals. State income taxes are added to this amount as well)

There are situations when a trust makes sense, and they typically involve control issues, not tax savings.

Some examples are as follows:

- If your IRA beneficiary is a minor child, because minors are not allowed to make tax elections.
- If your IRA beneficiary is disabled and cannot care for himself/herself. If you have a choice, it is better to fund such a "special-needs trust" with other assets, because required IRA withdrawals may interfere with the beneficiary's ability to qualify for government assistance.
- If your beneficiary needs help managing distributions from an inherited IRA, or potentially needs help sheltering the assets in a divorce.

Once it is determined that a trust is necessary to inherit your IRA consider setting up a separate revocable trust "to inherit the IRA and only the IRA," so that assets will not be comingled with other assets that are not subject to the same strict distribution rules.

Also consider leaving a Roth IRA to such a trust. That way the trust would owe no taxes on any distributions made on such funds with the exception of taxes owed on any additional earnings.

Heirs can split an IRA that they inherit outright, and then use their own life expectancies to stretch withdrawals across their lifetimes. This availability does not exist with a trust. Instead you would have to use the oldest heir's life expectancy.

To allow each heir to stretch withdrawals across his or her own lifetime you would have to split your IRA and create a separate trust as beneficiary of each IRA, and leave the trusts to separate heirs.

Finally for any of this to work the trust has to qualify as a "look-through" or "see-through" trust meaning that it is clear who your beneficiaries are.

Another consideration is to only name your heirs in the trust receiving the IRA funds and the conditions that they must meet.

You would not want to name alternative beneficiaries such as a charity as that would disqualify the stretched withdrawals because the charity could not qualify for life expectancy treatment.

We here at Muffoletto & Company believe that the more informed you are in regards to the rules and regulations that affect you the more we can be of service.

Should you have questions relating to any tax or financial matters give us a call

(818) 346-2160,

or you can visit us on the web at

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