Problems With Self-Directed IRAs

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Why?

Retirement assets were 49.9% of financial assets in 2001.

Families in the top 10% of net worth saw the percentage of their financial assets attributable to IRAs increase from 38.9% in 1992 to 54.3% in 2001.

P R O B A T E & P R O P E R T Y, May/June 2006Vol. 20 No. 3
What Estate Planners Should Know About the IRA Charitable Rollover, Kate M. H. Kilberg

IRA = Trust

408(a) "individual retirement account" **means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries, but only if the written governing instrument creating the trust meets the following requirements**:

Investments

- Buy Real Estate?
- Invest in leveraged hedge funds?
- Invest in private businesses?
- Purchase Accounts Receivables?
- Engage in leasing programs?
- Make Mortgage Loans?
- Borrow Money?

Investments

Anything except

Life Insurance Contracts

Collectibles

Prohibited Transactions

An IRA cannot engage in any transaction with anybody or anything considered related to the IRA

The penalty for doing so is the IRA will be considered fully distributed

Related Party

- IRA/Retirement Plan Owner
- Ancestors of the Owner
- Offspring of the Owner
- Spouses of the above
- Business entities where the Owner is a 50% or greater shareholder

Question

- Do you manage the IRA of your parents of other loved ones or friends?
- The majority of people who have the ability to do so usually do.
- Why?
- Because the loved one trusts you?
- Because the loved one wants you to make the money?
- Because you would like to make the money managing the assets inside their IRA?

Gotchyas

A person in which such a fiduciary has an interest which may affect the exercise of such fiduciary's best judgment as a fiduciary

DOL Advisory Opinion 2005-23A

Gotchyas

26 CFR 54.4975-6 (a)(6)

Example (6). F, a fiduciary of plan P . . . With authority respecting the management of P, retains S, the son of F, to provide for a fee. . . administrative services necessary for the operation of the plan. F has engaged in an act described in section 4975(c)(1)(E), because S is a person in whom F has an interest which may affect the exercise of F's best judgment as a fiduciary. Such act is not exempt under section 4975(d)(2) irrespective of whether the provision of the services by S is exempt.

Continued

- Now when I first read that little snippet, my first reaction was, “Why can’t they just write in plain English?” After I translated this section, my second reaction was, “Holy ****”. To put this section in plain English, it would read:
- **“If a financial advisor has received a cent of compensation for managing or investing their own, a loved one’s IRA, the IRA will be fully distributed and subject to taxes.”**

Continued

- Also, do not forget that there is also a potential for a 10% penalty if the IRA is deemed distributed if the loved one is not over the age of 59.5 years old.

Continued

- My guess is that 90% of the insurance agents, registered reps, and RIAs have in one way, shape, or form, received compensation from their own or their family member's IRA.
- If so, they have engaged in what the IRS calls a prohibited transaction and have caused that IRA to be fully distributed.

What should you do now?

- What should you do if you are managing the assets of a loved one in their IRA?
- Good question.
- The answer depends on when you started managing those assets.
- Also, what is the likelihood that your “clients” will get in trouble over this issue?

Estate Planning Concepts

Concerns

- **What if you leave part or all of the IRA to your kids or grandkids?**
- **Will they have unfettered access? Will their spouses?**
- **Will they keep the assets in the IRA? Will their spouses?**
- **What happens if they distribute the IRA?**

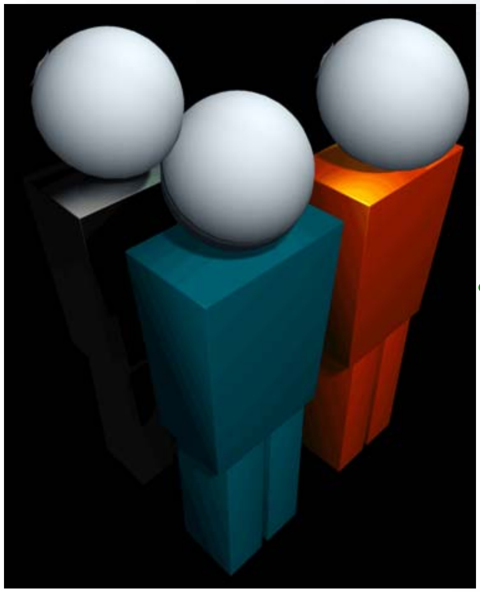
Example

- Client leaves his IRA to his 18 year old daughter, Paris

- Paris decides she would rathe have a fancy car than money in the bank.

Solution

- **Client, during his life, moves his IRA assets into a Limited Partnership**
- **A friend/trusted advisor is the General Partner of the LP**
- **If Paris liquidates the IRA, all she gets is LP units**



The General Partner(s):

Provide Investment Experience (Level Head)

Follow client's wishes on distributions

Questions?

Tim Berry, JD

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Overview for the Professional Designation: CWPP™ (Certified Wealth Preservation Planner)

The Wealth Preservation Institute

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What do Advisors want?

- To earn more money?
- To have more knowledge than other advisors?
- To provide better advice to clients on multiple topics?
- To be more credible than other advisors?
- A team of advisors for support and back office when dealing with “advanced” planning.
- The ability to market to CPA, Attorneys and physicians through continuing education credit.
- Are these of interest to you?
  – If so you are a candidate to become an CAPP™ or CWPP™

The WPI and CWPP™/CAPP™

- What is the Wealth Preservation Institute (WPI)?
  - The **only** educational entity in the country devoted to provide education on **“advanced” planning (**asset protection, tax and estate planning)
  - The **only** entity in the country focusing on topics that apply mainly to the **high income/net worth client**.
  - Certifying entity for the CWPP™ designation.
- The CWPP™ course is a 24 hour certification program which can be taken all online or in person.
- The Certified Asset Protection Planner designation is for those simply want to deal with AP (18 hours).

Are you should learn “Asset Protection”

- Why learn asset protection?
  - 99% of your current and future clients are not asset protected.
  - Most clients with wealth, once made aware of this fact, will want help.
  - Once you learn the topic you can help.
  - You are **not** talking “product” with a client and therefore will not be seen as pitching product.
  - Of all the topics you would deal with, asset protection is best **client gathering tool**.

Topics

- What topics are covered in the CWPP™ course?
- **Asset protection (3 hours)**

  -Domestic

  -Offshore
- **Deferred Compensation (4 hours)**

  -WealthBuilder® Annuity; Traditional NQDC and the Leveraged Bonus Plan®

  -Qualified plans/412(i) plans ("carve-out" planning)

  -ESOPs

  -IRAs
- **Business Planning (6 hours)**

  -Account Receivables (A/R) Leveraging (done the right way)

  -VEBAs and 419A(f)(6) Plans

  -Section 79 Plans

  -Closely Held Insurance Companies

  -Corporate Structure

Continued

- **Estate Planning (8 hours)**
  - -Basic
  - -“Advanced”
  - -Private Annuities Trusts (capital gains deferral)
  - - Life Insurance
  - -Qualified Pension Insurance Partnership® (Mitigating the 75% Tax Trap)
  - -Charitable planning
  - -Long Term Care Insurance
- **Personal Finance (4 hours)**
  - -Annuities
  - -Life Settlements
  - -1% CFA Mortgages (Equity Harvesting the “right” way)
  - -Reverse Mortgages
  - -Private Annuity Trust

Marketing

- The WPI helps is certified advisors market in several very unique ways.
- 1) The ability to become an instant author through a 340+ page "**ghost book**."
- The WPI will allow CWPP™ advisors to give CPE continuing education courses on a local level to CPAs and accountants.
- Ability to give CME seminars to physicians.

Continued

- The WPI has a number of **articles** that CWPP™ advisors can use to place in local medical, accounting, legal and other business journals.
- The WPI also has dozens of PowerPoint presentations CWPP™ or CAPP™ advisors can use to present topics to either client or other advisors. (what a time saver).

Marketing continued

- **Ghost Web-Site** for those who want a web-site which tells your clients about your special knowledge.
- www.thewpi.org/template
- **E-newsletters** The WPI creates for you to send out to your clients.
- **E-newsletter blasting system** so you can drip on your client’s with Educational newsletters.
  - This system is setup to track who opens your newsletters and how many times they open them.
  - Can you imagine calling a client and telling them that you noticed they opened the last e-newsletter 5 times and you wondered if you could answer any questions for them.

Should you become a CWPP™?

- YES. IF you are looking to learn several new topics which:
  - can help high income/net worth clients;
  - can help position you as the client's trusted advisor and team leader;
  - are very insurance and annuity friendly.
- If you are looking to become better educated on topics you currently deal with.
- If you would like keep updated on law changes, new concepts and have access to PowerPoint presentations, articles and the ability to have your own "Ghost" book and ghost web-site and e-mail blasting system.

How to sign up.

- If you would like to sign up to become a CWPP™ and/or CAPP™ advisor, you can do so by clicking on the appropriate tabs on the left front bottom part of the web-site under Product Categories
- You can take the course entirely online or in person.
- You can **get started with a $500 deposit** which will get you access to over 640 pages of CWPP™ course material and the tests.

Questions

Please contact The WPI at 269-408-1841 or e-mail at info@thewpi.org