

ESTATE PLANNING FOR RETIREMENT ACCOUNTS TRUST FOR RETIREMENT ACCOUNTS

For many of my clients, a significant amount of their wealth has been accumulated within retirement accounts. Retirement accounts are usually distributed to beneficiaries as named within the account beneficiary designation at the retirement account owner's death. The beneficiaries will have different distribution options which can be very complicated and confusing to understand. Sometimes, beneficiaries may require asset management of the retirement account distributions due to the beneficiary being (i) a minor, (ii) dealing with medical or disability issues that require special needs to be address, (iii) creditor problems or (iv) not being good at dealing with large sums of money that will be distributed all at once. For these reasons, beneficiary designations should be reviewed as part of the estate planning process and it may be wise to consider a form of trust to be established to receive the retirement account distribution at the death of the owner.

The creation of a trust as part of the estate planning process which sole function shall be the custody, management and establishing the distribution for the beneficiary is an effective way to distribute the retirement account after the death of its owner. Rather than risking mistakes made by the beneficiary with respect to large withdrawals of the retirement account or the rapid squandering of the funds within the account by the beneficiary, a trust can be created that will continue to protect these funds for the beneficiary. If properly drafted, the trust may even provide protection from the beneficiary's creditors which may be lost if the beneficiary simply liquidates the retirement account or even maintains the retirement account as an inherited type of IRA.

When drafting a trust to be used solely for the distribution of a retirement account after the owner's death, the trust can be drafted as an accumulation trust to allow the trustee to retain retirement account distributions within the trust to be available for the beneficiary within the discretion of the trustee. The accumulation trust may be considered for beneficiaries who are minors, beneficiaries with creditor problems or for those who need help with managing wealth.

All retirement account owners should be carefully thinking about their beneficiary designations, especially considering that the SECURE ACT, which is effective as of January 1, 2020, made changes to the distribution rules of many retirement accounts. The most notable change is that beneficiaries who have inherited IRA's from someone who is not their spouse, will need to receive the entire inherited IRA distribution no later than December 31 during the year containing the tenth (10th) anniversary of the original IRA owner's death. If you as the IRA owner want these funds to be maintained longer than this ten (10) year period, you may consider adding the accumulation trust to your estate plan. A great time to consider the retirement account distribution is when creating or reviewing your estate plan.