ED SLOTT'S IRA ADVISOR

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Tax & Estate Planning for Your Retirement Savings

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Join the Retirement Planning Conversation

Government Responds to COVID-19

Federal Tax Filing and IRA Contribution Deadline Extended

On March 20, Treasury Secretary Steven Mnuchin announced the tax-filing deadline for 2019 federal income tax returns has been extended from April 15 to July 15, 2020 (IRS Notice 2020-18). Taxpayers will still need to file state income taxes. State filing and payment deadlines vary and are not always the same as the federal filing deadline. Confirmed by IRS, this extension also postpones the deadline for making 2019 prior-year contributions to traditional and Roth IRAs to July 15, 2020.

Careful monitoring of these contributions is essential. Advisors must be sure that all contributions made after April 15 are clearly designated as tax year 2019 contributions. Advisors should follow up and be sure these prior-year contributions are correctly handled by the IRA custodian.

The CARES Act

On March 27, 2020, President Trump signed into law the massive Coronavirus Aid, Relief, and Economic Security (CARES) Act. This legislation includes a waiver of required minimum distributions (RMDs) for 2020; it applies to company savings plans and IRAs, including both traditional and Roth inherited IRAs.

An RMD waiver is a huge help for clients who would have had to take a 2020 RMD based on much higher account values at December 31, 2019. Now, clients can sit out a year and avoid the tax bill on their 2020 RMDs, if they wish.

The CARES Act impacts 2019 RMDs having a required beginning date of April 1, 2020. Any 2019 RMD amount remaining and not withdrawn by January 1, 2020 is waived.

Another provision of the CARES Act waives the 10% early distribution penalty on up to $100,000 of 2020 distributions from IRAs and plans for affected individuals. The tax would be due but could be spread evenly over 3 years, and the funds could be repaid during those 3 years.

The new law also affects company plan loans taken by affected individuals. First, the law increases the maximum amount of plan loans to the lesser of $100,000 (reduced by other outstanding loans) or 100% of the account balance. (The usual limit is the lesser of $50,000, reduced by other outstanding loans, or 50% of the account balance.) This rule applies to loans taken within 180 days from the bill's date of enactment.

Second, any loan repayments normally due between date of enactment and December 31, 2020 could be suspended for one year. ■

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Executive Summary

Government Responds to COVID-19

- The tax-filing deadline for 2019 federal income tax returns and the deadline for making 2019 prior-year contributions to traditional and Roth IRAs are extended from April 15 to July 15, 2020; state filing deadlines vary by state.
- Congress has passed the massive Coronavirus Aid, Relief, and Economic Security (CARES) Act, which waives required minimum distributions (RMDs) for 2020 and the 10% early distribution penalty for up to $100,000 of 2020 IRA and company plan distributions taken by affected individuals.

No Easy Task: *Sorting Out Company Savings Plan Tax Rules*

- Similarities between 401(k), 403(b) and 457(b) plans include elective deferral limits (EDLs), Roth contributions, plan loans, in-service and hardship withdrawals, RMDs, and bankruptcy protection.
- Differences emerge when discussing early distribution penalties, aggregation rules, incoming rollovers and catch-up contributions, among others.
- SEP and SIMPLE IRA plans have similar rules when it comes to Roth contributions, plan loans, RMDs and creditor protection.

Alternative IRA Investments: *Proceed with Caution*

- When markets turn volatile, IRA owners seeking diversification and a potential safe haven for their retirement savings may be drawn to alternative IRA investments.
- A recent report from the Government Accountability Office (GAO) provides a stark warning that while alternative strategies may be appealing, they are not without significant risk.
- The lack of education material from the IRS, combined with the hands-off approach of self-directed IRA custodians, can spell trouble for IRA owners unaware of the risks of alternative investments.

To Track the SECURE Act, Consider an IRA Trust

- One way to address the risk of missing the 10-year inherited IRA payout window (and subsequent 50% penalty) is to name a trust as beneficiary.
- Financial firms have no obligation to track the 10-year window. Thus, an IRA beneficiary will probably not receive any notice of future mandated account liquidation by the end of the 10th year, from any source.
- The first chance for violation of this rule won't occur until 2030.
- If there is no completed successor beneficiary form, the IRA custodian's default rules will determine the replacement successor beneficiary.
- Naming an IRA trust may be a worthwhile outlay of time and money, because beneficiaries could be spared potentially adverse tax penalty consequences.

No Easy Task: Sorting Out Company Savings Plan Tax Rules

Tracking the myriad tax rules governing company savings plans is no easy task. For one thing, the rules for 401(k), 403(b) and 457(b) plans, although similar, differ in several important respects.

To make matters worse, Simplified Employee Pension (SEP) IRA and Savings Incentive Match Plan for Employees (SIMPLE) IRA plans are usually subject to IRA tax rules – *not the 401(k), 403(b), and/or 457(b) rules.* And sometimes the rules even differ between SEP and SIMPLE IRA plans. This article sorts through the confusion.

Non IRA-Based Savings Plans

Company savings plans fall into two main categories: non IRA-based plans and IRA-based plans.

There are three varieties of non IRA-based plans:

1. **401(k) plans:** 401(k) plans are mainly for employees of private sector companies. A Solo 401(k) is a 401(k) plan for business owners with self-employment income and no employees (other than a spouse). The Thrift Savings Plan (TSP) is a 401(k) plan for federal government workers and the military. 401(k) plan sponsors often match elective deferrals and may make other employer contributions.

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2. **403(b) plans:** 403(b) plans are for employees of tax-exempt private employers (e.g., hospital workers), public schools and churches. 403(b) plan sponsors may make employer contributions.
3. **457(b) plans:** 457(b) plans are for employees of state and local governments. Although employer contributions are permitted, they count against the elective deferral limit (EDL).

What's the Same?

EDLs: 401(k), 403(b) and 457(b) plans' EDLs are $19,500 in 2020, but employees, age 50 or older at the end of the year, can make catch-up contributions (up to $6,500 in 2020).

Roth contributions: Roth contributions may be offered in 401(k), 403(b) and 457(b) plans. If available to participants, Roth contributions are aggregated with pre-tax deferrals for purposes of the EDL.

Plan loans: Plan loans, up to certain limits, are allowed in 401(k), 403(b) and 457(b) plans.

Distributable events: Distributions from 401(k), 403(b) and 457(b) plans are available at separation from service or death.

In-service withdrawals: 401(k) and 403(b) plans have always been permitted to offer in-service withdrawals at age 59½ or older. Following the Bipartisan American Miners Act of 2019, governmental 457(b) plans can now also offer in-service withdrawals at age 59½.

Hardship withdrawals: If allowed by the plan, hardship withdrawals can be made from 401(k), 403(b) and 457(b) plans at any age. The 457(b) hardship withdrawal standard is stricter than the 401(k) and 403(b) standard.

RMDs: For 401(k), 403(b) and 457(b) plans, required minimum distributions (RMDs) must begin for the year the participant attains age 72. However, the plans may (but are not required to) use the "still-working exception." That exception allows employees who do not own more than 5% of the company to defer RMDs for the plan they are participating in until the year they separate from service or retire.

Outgoing rollovers: 401(k), 403(b) and 457(b) plans must offer direct rollovers of eligible distributions to IRAs or other plans. If an eligible distribution is not directly rolled over, the plan must withhold 20% of the distribution for federal income taxes (possibly an additional amount for state taxes).

Creditor protection in bankruptcy: Clients who have declared bankruptcy are completely protected from creditors going after their 401(k), 403(b) or 457(b) accounts.

What's Different?

Overall contribution limits: 401(k) and 403(b) plans have a combined employer and employee contribution limit of $57,000 (plus catch-up contributions) in 2020.

With 457(b) plans, combined employer and employee contributions may not exceed the elective deferral limit (EDL) ($19,500 or $26,000 in 2020).

After-tax employee contributions: If the plan allows, clients in 401(k) and 403(b) plans can make "traditional" after-tax employee contributions. After-tax contributions are not subject to the EDL but are taken into account for the overall contribution limit.

After-tax contributions are not allowed in 457(b) plans.

Early distribution penalty: Unless an exception applies, there is a 10% penalty on 401(k) and 403(b) distributions if your client is under age 59½. This penalty does not apply to 457(b) distributions – *except for distributions of non-457(b) plan rollovers.*

> Clients who have declared bankruptcy are completely protected from creditors going after their 401(k), 403(b) or 457(b) accounts.

RMDs: Only RMDs for pre-1987 403(b) accounts can be delayed until age 75.

Plan aggregation rules: In determining RMDs, 403(b) plans can be aggregated.

401(k) and 457(b) plans cannot be aggregated. This means that RMDs for each of a client's 401(k) and 457(b) plans must be calculated separately and taken separately from each plan.

Incoming rollovers: Rollovers from traditional IRAs or other company plans into any of the three types of plans are permitted if the plan allows.

However, 457(b) plans that allow incoming rollovers from IRAs or non-457(b) plans must hold those assets in separate accounts.

Special catch-up contributions: 403(b) plans can (but are not required to) allow a special catch-up contribution for employees with 15 or more years of service. This catch-up allows additional deferrals of up to $3,000 per year for up to five years.

457(b) plans can permit a special catch-up contribution for the last three years before an employee's normal retirement age. This allows an eligible employee to contribute up to twice the usual EDL in those three years.

Creditor protection outside bankruptcy: ERISA-covered plan accounts are totally protected

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(except for qualified domestic relations orders [QDROs] and IRS tax levies) against non-bankruptcy lawsuits. ERISA-covered plans include 401(k) plans (except for Solo 401(k) plans and the TSP) and 403(b) plans sponsored by tax-exempt employers with employer contributions.

Non-ERISA plan accounts only receive protection at the state level, and that protection varies widely. Non-ERISA plans include 403(b) plans sponsored by tax-exempt employers (if the employer does not contribute), 403(b) plans sponsored by public schools or churches, and 457(b) plans. For clients in non-ERISA plans who are concerned about lawsuits outside bankruptcy, advisors must familiarize themselves with the applicable state creditor law.

IRA-Based Savings Plans

Clients, more so small businesses, may elect to sponsor IRA-based savings plans. These include:

1. **SEP IRA plans:** SEP IRA plans allow employers to make contributions to traditional IRAs for eligible employees. SEPs do not permit employee contributions. Although available to any size business, most SEPs are established by small companies for their administrative simplicity.

   Prior to 1997, employers could have established a SEP IRA plan that included elective deferrals, known as a Salary Reduction Simplified Employee Pension Plan (SARSEP).

   The SIMPLE IRA plan was designed to replace SARSEPs. Although SARSEPs could not have been established after December 31, 1996, existing plans can continue to operate – *even for new employees.*

2. **SIMPLE IRA plans:** SIMPLE IRA plans are limited to companies with 100 or fewer employees. SIMPLE IRA contributions are made to a SIMPLE IRA for each employee. A SIMPLE plan allows employees to make elective deferrals. For each year, the employer must either match elective deferrals (dollar-for-dollar, up to 3% of pay) or make a contribution equal to 2% of pay to all eligible employees (even those who choose not to defer).

What's the Same?

Roth and after-tax contributions: Neither Roth nor after-tax contributions are allowed in SEP or SIMPLE IRAs.

Plan loans: As with other IRAs, SEP or SIMPLE IRAs cannot allow loans. A loan would be considered a prohibited transaction.

Distributable events: Both SEP and SIMPLE IRAs follow the IRA distribution rules. This means SEP or SIMPLE participants can take distributions at any time.

RMDs: Like other IRAs, RMDs for SEP and SIMPLE IRA participants must begin for the year the participant attains age 72. There is no "still-working exception."

Plan aggregation rules: SEP and SIMPLE IRAs can be aggregated with other IRAs for calculating RMDs. After RMDs for each IRA account are calculated separately, the owner can take the total RMD for all IRA accounts from one (or more) IRA account (including the SEP or SIMPLE IRA).

> SEP and SIMPLE IRAs can be aggregated with other IRAs for calculating RMDs.

Creditor protection: SEP and SIMPLE IRA accounts are completely shielded against bankruptcy creditors. (There is no cap on bankruptcy protection in plans as there is with IRAs.)

Against non-bankruptcy lawsuits, SEP and SIMPLE IRAs only receive whatever state law protection is available.

What's Different?

EDLs: For SIMPLE IRA plans, the EDL is $13,500 in 2020, and the catch-up limit for workers age 50 and older is $3,000.

SEP IRA plans do not allow elective deferrals or catch-up contributions.

Overall contribution limits: Employer contributions to a SEP IRA may not exceed the lesser of $57,000 (in 2020) or 25% of compensation.

Total SIMPLE IRA contributions cannot exceed the sum of the elective deferral limit ($13,500, plus catch-up) and the amount of employer contributions.

Early distribution penalty: Unless an exception applies, pre-59½ SEP and SIMPLE IRA distributions are subject to the 10% penalty.

However, pre-59½ distributions from SIMPLE IRAs are subject to a 25% (rather than a 10%) penalty when withdrawn during an initial two-year holding period. That period begins on the date of the employee's first contribution.

Rollovers: During the two-year holding period, SIMPLE IRA funds may only be rolled over to other SIMPLE IRAs, and a SIMPLE IRA can only accept a rollover from another SIMPLE IRA.

After the two-year period, SIMPLE IRA funds can be rolled over to a traditional IRA or employer plan and can also be converted to a Roth IRA. Additionally, traditional IRAs and company plan monies can be rolled into a SIMPLE IRA.

SEP IRAs do not have holding period restrictions and follow the regular IRA rollover rules. ■

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Alternative IRA Investments: *Proceed with Caution*

As COVID-19 has been wreaking havoc on the stock market and causing millions of retirement account balances to suffer significant losses, IRA owners are seeking diversification and a potential safe haven for their retirement savings and may even consider moving their money into alternative IRA investments. It is crucial your clients proceed with extreme caution.

A recent report from the Government Accountability Office (GAO), *IRS Could Better Inform Taxpayers about and Detect Noncompliance Related to Unconventional Assets,* provides a stark warning that while alternative strategies may be appealing, they are not without severe risk.

Alternative Investments

There is a very short list of assets in which IRAs are not allowed to invest. Prohibited investments include life insurance, collectibles, coins (except certain coins minted by the U.S. Treasury), and S-Corp stock. All other types of investments are allowed.

In this report, GAO noted that most IRA custodians will limit available investment choices to firm-approved stocks, bonds, mutual funds, and CDs. However, some custodians will allow a wider choice of investment options, including alternative investments. While there is no standard definition of alternative IRA investments, they typically include real estate, non-publicly traded stock, and limited partnerships. Further, the internet is flooded with ads touting the virtues of even more alternative investments, such as real estate, precious metals, cryptocurrency – *and these are just the tip of the iceberg.*

These alternative investments may be appealing to clients seeking diversification, a greater return on investment, or shelter from volatile markets. What is often overlooked is that just because an alternative investment is allowed does not mean it is always a good idea.

Custodial agreements for these accounts often require IRA account owners to be solely responsible for directing their investments. This means the IRA owner must oversee the selection, management, monitoring, and retention of all investments in the account. They alone bear the consequences of any mistakes.

In prior reports, GAO identified areas with complex rules where IRA owners with alternative investments are likely to run into trouble. The list includes not only the prohibited investments, but also prohibited transactions, unrelated business income and fair-market-value reporting.

> Custodial agreements for these accounts often require IRA account owners to be solely responsible for directing their investments.

These potential pitfalls are often overlooked by clients attracted to alternative investments. They may have no idea that vacationing at the golf resort where their IRA bought property can result in a prohibited transaction which would liquidate their entire IRA and bring a large tax bill. They may be unaware that investing their IRA in a local restaurant could mean additional annual tax returns to report unrelated business income in their IRA. They may not know that the IRS requires annual reporting of the fair market value of all IRAs, including self-directed ones. Fair-market-value reporting is pretty straightforward with IRAs invested in conventional assets like stocks and mutual funds but can be a much bigger challenge for real estate or an LLC where a professional appraisal or valuation may be required.

The IRS Is Already Watching

The IRS is currently gathering additional information on IRAs with alternative investments. New reporting requirements were added for alternative IRA investments back in 2014. There are now two applicable boxes on Form 5498. Box 15a, "FMV of certain specified assets," is for reporting the fair market value of any hard-to-value assets in an IRA. This is in addition to reporting the total fair market value of the entire account to the IRS in Box 5.

Box 15b is used to identify the type of asset held in the account. There are codes for stock (Code A), Debt obligation (Code B), LLC's (Code C), Real estate (Code D), Partnerships & trusts (Code E), Options (Code F), Other assets (Code G), and more than two types of alternative assets (Code H).

The instructions for Form 5498 explicitly state that "Trustees and custodians are responsible for ensuring that all IRA assets (including those not traded on established markets or with otherwise readily determinable market value) are valued annually at their fair market value." In other words, the IRS wants to know the fair market value of every IRA, regardless of what it is invested in and how difficult it may be to value.

In addition, Form 1099-R now has a special distribution code (Code K) to report distributions of alternative investments which may be hard to value. These include LLCs, partnerships, trusts, or similar entities, not readily tradable on an established U.S. or foreign

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securities market, real estate and options contracts or similar products not offered for trade on an established U.S. or foreign option exchange.

What GAO Found

GAO found several potential trouble spots for alternative investments in IRAs. To start, GAO found there is insufficient taxpayer-friendly IRA guidance available to IRA owners who choose to invest in alternative assets. The publications that provide information on IRAs, Publications 590-A and 590-B, do not include significant resources on the risks of alternative investments. The IRS' website has more information but, in the eyes of GAO, not enough.

This lack of educational material from the IRS, combined with the hands-off approach of self-directed IRA custodians, can spell trouble for IRA owners unaware of the risks of alternative investments.

Additionally, using the information from Form 5498, GAO made several interesting findings. It found that 20% of IRAs invested in alternative assets were missing the required fair market value reporting on Form 5498. Based on the Box 15b coding, GAO was also able to determine exactly how many of the IRAs invested in alternative assets were invested in LLCs, which the IRS has recognized as presenting a "greater noncompliance risk". According to GAO, IRAs invested in LLCs have been targeted by the IRS for audit, and those audits have detected prohibited transactions which "can result in substantial tax adjustments".

What GAO Recommended

In its report, GAO recommended the IRS improve its educational materials for those who invest in self-directed IRAs. GAO concluded that the IRS can do more to crack down on potential abuses in self-directed IRAs. Specifically, GAO recommended increasing individual auditing of those IRAs invested in alternative assets.

The report also said the IRS could require reporting of known abusive IRA arrangements and prohibited transactions as listed transactions. There are severe penalties for failing to disclose listed transactions.

Finally, GAO advised that the IRS explore disclosure of high-risk IRA asset types susceptible to significant valuation misstatements, such as LLCs, as transactions of interest. Transactions of interest must also be reported to the IRS.

The GAO report revealed the IRS expects to issue new IRA regulations in June 2020. IRS officials told GAO that these new regulations would address FMV for certain categories of hard-to-value unconventional assets. ■

To Track the SECURE Act, Consider an IRA Trust

Guest Expert

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The Setting Every Community Up for Retirement Enhancement (SECURE) Act has introduced a 10-year rule for many beneficiaries of IRAs and employer-sponsored retirement plans. Following this new rule will require extensive tracking and failure to comply could generate a penalty equal to 50% of the amount involved.

One way to address this risk is to name a trust as IRA beneficiary, shifting tracking responsibility from the retirement plan beneficiary to the trustee of the IRA trust. Depending on the choice of beneficiary, it may be an astute move to begin discussions of an IRA trust this year.

Eligible Beneficiaries

Effective for deaths occurring in 2020 and later years, certain beneficiaries remain eligible for life expectancy-based required minimum distributions (RMDs). These eligible beneficiaries are surviving spouses, disabled and chronically ill individuals, minors (until they reach the age of majority), and individuals who are less than 10 years younger than the deceased IRA account owner. The old rules, with certain modifications, apply to such beneficiaries.

Indeed, stretching RMDs, tax-deferred, may become even more appealing for some heirs under new IRS life expectancy tables.

Done in a Decade

For other individual beneficiaries, including most adult sons and daughters, the new 10-year rule will be effective. There will be no annual RMDs, but the inherited retirement account must be emptied within 10 years following the year of death of the IRA owner.

Indeed, one IRA-related issue created by the SECURE Act relates to this 10-year rule. Technically, the new law indicates that designated beneficiaries can wait for 10 years before taking any distributions. Realistically, though, it's likely that the intent of the new law includes keeping the old law's rules on year-of-death RMDs.

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Example: Alice dies in July 2020 at age 80 and leaves her IRA to her 50-year-old daughter Jen, who is neither disabled nor chronically ill. Jen would be subject to the 10-year rule with no distributions required until December 31, 2030.

Alice had been taking $3,000 a month from her IRA to satisfy her 2020 RMD. At her death, she had received 7 monthly payouts, for a total of $21,000.

Jen, the IRA beneficiary, probably is still expected to withdraw the $15,000 RMD balance by the end of 2020, under the old rules. Hopefully, the U.S. Treasury Department will release some written guidance for clarification.

Missing the Mark

Assuming that a year-of-death RMD is required and Jen complies, she would have to withdraw all the remaining money from Alice's IRA (after a timely payout of the $15,000 remaining year-of-death RMD) by the end of 2030.

If Jen takes no interim distributions, seeking maximum potential long-term investment buildup, she might face a steep income tax bill for 2030. However, 10 years of untaxed investment compounding could still bring her a substantial payout, after tax. On the surface, this sounds straightforward. Inherit the money (and pay any remaining year-of-death RMD), let the account build for 10 years, distribute all the money, pay the tax, and emerge with a nice pile of cash. *Except, who will make sure that Jen actually follows the plan?*

Not the IRA custodian, because financial firms have no obligation to do so. As things stand now, an IRA beneficiary probably will receive no notice of future mandated account liquidation by the end of the 10th year, from any source. Perhaps Jen's tax preparer (or some other advisor) will timely inform her of the year-of-death RMD and the 2030 deadline, but there is no assurance of that.

Even if Jen is so informed, there is no certainty that she'll be working with the same advisor in 2030 and will receive a timely reminder. *Will Jen, herself, remember?*

Perhaps, but many things can happen in 10 years. Jen might lose some of her mental capacity. She might be so involved with family concerns that this inherited IRA slips her mind. *...And so on.* If this IRA still exists for even one day in 2031, the entire amount could be subject to a 50% penalty.

> As things stand now, an IRA beneficiary probably will receive no notice of future mandated account liquidation by the end of the 10th year, from any source.

Untimely Second Death

In another scenario, Jen dies in 2028, before the 10-year deadline, without emptying this inherited IRA. *What will happen to this account?* (Any contingent beneficiaries of the original IRA account owner will not be recognized once Jen has inherited the account.)

Ideally, Jen would have filled out a successor beneficiary form, naming her two children, soon after inheriting the IRA from her mother. If so, this inherited IRA could pass to Jen's two children.

Will those new beneficiaries know they have two more years of untaxed investment buildup, followed by a full payout in 2030? Will they mistakenly believe that the 10-year clock starts over, giving them until 2038 to cash in? Or will they be totally ignorant about any distribution rules for this IRA?

Keep in mind that the SECURE Act is very much in the news now, so advisors are all-too-well aware of the 10-year rule. The first chance for violation of this rule won't occur until 2030, and no one can know what will be happening in the world then, so the media focus on this deadline might be scant.

Unintended Successors

The preceding paragraphs assume that Jen, the primary IRA beneficiary, completes a successor beneficiary form, naming her children.

In reality, this may not happen, so many IRAs will not have designated successor beneficiaries. In these situations, where the original beneficiary dies in the gap period with money still in the IRA but with no completed successor beneficiary form, the IRA custodian's default rules will apply to naming successors, and those provisions will vary from one financial firm to another.

Alice's IRA may then pass to Jen's husband – *even if Jen and her husband are in the midst of hostile divorce negotiations* – rather than to Alice's beloved grandchildren.

Other scenarios also could result in an IRA passing to someone that the IRA owner would not have chosen. The IRA instead could pass to the original beneficiary's estate with uncertain consequences – *and perhaps a more extensive probate process.*

What's more, such an unintended successor beneficiary might not realize that the original beneficiary was part-way through a 10-year countdown. The deadline could be missed, possibly resulting in steep taxes and penalties.

In yet another possible situation, suppose that Jen's two children have succeeded Jen as IRA beneficiaries after Jen's death, as explained.

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Further, suppose that one (or both) of the successor beneficiaries dies before 2030, leaving an IRA that has not yet been depleted. If so, the same sequence of events will unfold. With a successor beneficiary form in place, a new co-beneficiary or co-beneficiaries will replace the one who died.

If there is no completed successor beneficiary form, which is a likely outcome, the IRA custodian's default rules will determine the replacement successor beneficiary. Then, there may be little chance that the 10-year rule will be followed, so the 50% penalty on insufficient distributions may be triggered after 2030.

Time for a Trust

If clients plan to leave their retirement assets to recipients who are not eligible for life expectancy based RMDs and are unwilling to subject such future beneficiaries to the risks described here, one way to address the problem is to name a trust as beneficiary of their IRA or employer plan account. Then, retain competent counsel to draft the trust.

Such an IRA trust might call for no payouts to the IRA trust beneficiary during the first 9 years, then a full distribution to the trust beneficiary during year 10. The trustee also could be given the ability to pay out some cash to the trust beneficiary prior to full depletion of the IRA account.

With this arrangement, or something similar, the trustee will become responsible for following the 10-year rule created by the SECURE Act. Assuming the named trustee is a human, successor trustees could be named to step in if the original trustee dies or becomes incompetent. Such a trust might be established immediately, as an IRA owner or plan participant could die at any time. Moreover, the trust creation should be handled by a knowledgeable estate planning attorney, as the SECURE Act poses challenges.

Show Them the Money

Advising clients to name a trust as IRA beneficiary is one thing but convincing them to pay upfront for a trust may be a bit more of a challenge. An experienced estate planning attorney might spend 10-15 hours to produce a solid IRA trust that meets a client's needs, so the initial outlay could be thousands of dollars. Fortunately, the IRA owner won't have to bear continuing administrative costs if this is a newly created trust that becomes effective at the IRA account owner's death. The future costs to the trust can be worthwhile if the trustee helps avoid SECURE Act snares.

The bottom line is that advisors' clients (and future retirement account beneficiaries) may be at-risk if they flunk the 10-year test. Headaches may also arise when an eligible designated beneficiary is the beneficiary of a retirement account. Advisors should warn clients about potential future consequences. ■

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The Multiple Plan Table for 2020

Doubling up on contributions to retirement accounts is often used as a "catch-up" strategy for saving for retirement. While such a strategy can be beneficial, breaking the rules can be costly. To help you get a quick answer to the question: ***"What is the maximum contribution limit when an individual participates in two retirement plans?,"*** here is the popular "Multiple Plan Table" created by Denise Appleby, based on Ed Slott's ideas. This table also shows whether participation in an employer sponsored retirement plan has any effect on contributions to traditional and/or Roth IRAs and vice versa.

This table has been updated for 2020. The 2019 version was used with Guest IRA Expert Denise Appleby's article, "5 Key Rules for Doubling Up on 2019 Contributions," in the February 2019 issue of Ed Slott's IRA Advisor.

Please note:

- The salary deferral contribution limit for 2020 is $19,500 ($13,500 for SIMPLE IRAs and SIMPLE 401[k]s).
- Participants who are at least age 50 by the end of the year may make catch-up contributions of up to $6,500 to employer sponsored retirement plans ($3,000 for SIMPLE IRAs and SIMPLE 401[k]s) and $1,000 for Traditonal and Roth IRAs.
- For 2020, the salary deferral limit is the lesser of 100% of compensation or $19,500 (plus the $6,500 catch-up contribution for those who are least age 50 by the end of the year).
- Under IRC § 415(c), contributions to a participant's account under an employer-sponsored defined contribution plan cannot exceed the lesser of 100% of compensation or $57,000 (2020 limit).

Year 2020	Traditional IRA	Roth IRA
Traditional IRA and/or Roth IRA	Total contributions to all Traditional and/or Roth IRAs for the year cannot exceed $6,000.	Total contributions to all Traditional and/or Roth IRAs for the year cannot exceed $6,000.
SEP IRA	May affect the individual's ability to deduct the Traditional IRA contribution. Individual may contribute up to $6,000 to all Traditional/ Roth IRAs and receive up to $57,000 as SEP contributions.	Does not affect Roth IRA contributions. Individual may contribute up to $6,000 to all Traditional/ Roth IRAs and receive up to $57,000 as SEP contributions.
SIMPLE IRA or SIMPLE 401(k)	May affect the individual's ability to deduct the Traditional IRA contribution. Individual may contribute up to $6,000 to all Traditional/ Roth IRAs and make salary deferral contributions of up to $13,500 plus receive employer contributions in the SIMPLE.	Does not affect Roth IRA contributions. Individual may contribute up to $6,000 to all Traditional/ Roth IRAs and make salary deferral contributions of up to $13,500, plus receive employer contributions in the SIMPLE.
Profit Sharing or Money Purchase Pension Plan	May affect the individual's ability to deduct the Traditional IRA contribution. Individual may contribute up to $6,000 to all Traditional/ Roth IRAs and receive up to $57,000 as profit-sharing and/or money purchase contributions.	Does not affect Roth IRA contributions. Individual may contribute up to $6,000 to all Traditional/ Roth IRAs and receive up to $57,000 as profit-sharing and/or money purchase contributions.
401(k) Plan / Roth 401(k)	May affect the individual's ability to deduct the Traditional IRA contribution. Individual may contribute up to $6,000 to all Traditional/ Roth IRAs and receive up to $57,000 in employer and employee contributions in the 401(k).	Does not affect Roth IRA contributions. Individual may contribute up to $6,000 to all Traditional/ Roth IRAs and receive up to $57,000 in employer and employee contributions in the 401(k).
403(b) Plan / Roth 403(b)	May affect the individual's ability to deduct the Traditional IRA contribution. Individual may contribute up to $6,000 to all Traditional/ Roth IRAs and receive up to $57,000 in employer and employee contributions in the 403(b).	Does not affect Roth IRA contributions. Individual may contribute up to $6,000 to all Traditional/ Roth IRAs and receive up to $57,000 in employer and employee contributions in the 403(b).
457(b) Plan / Roth 457(b)	Does not affect IRA contributions. Individual may contribute up to $6,000 to all Traditional/ Roth IRAs & receive up to $19,500 in the 457(b). $19,500 may be salary deferral or a combination of salary deferral plus employer contributions.	Does not affect Roth IRA contributions. Individual may contribute up to $6,000 to all Traditional/ Roth IRAs and receive up to $19,500 in the 457(b). $19,500 may be salary deferral or a combination of salary deferral plus employer contributions.

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Multiple Plan Table (2020)

Year 2020	SEP IRA	SIMPLE IRA or SIMPLE 401(k)
Traditional IRA and/or Roth IRA	Does not affect SEP contributions. Individual may receive up to $57,000 as SEP contributions and contribute up to $6,000 to all Traditional/Roth IRAs.	Does not affect SIMPLE contributions. Individual may make salary deferral contributions of up to $13,500 plus receive employer contributions in the SIMPLE and contribute up to $6,000 to all Traditional/Roth IRAs.
SEP IRA	If employers are unrelated or not affiliated, individual may receive up to $57,000 in each SEP – totaling $114,000. If employers are related or affiliated, total contributions cannot exceed $57,000.	If employers are unrelated or not affiliated, individual may make salary deferral contributions of up to $13,500 plus receive employer contributions in the SIMPLE and receive up to $57,000 in the SEP. If employers are related or affiliated, all employees of both businesses must be covered under the same plan – SIMPLE or SEP – but not both.
SIMPLE IRA or SIMPLE 401(k)	If employers are unrelated or not affiliated, individual may receive up to $57,000 in the SEP and make salary deferral contributions of up to $13,500 plus receive employer contributions in the SIMPLE. If employers are related or affiliated, all employees of both businesses must be covered under the same plan – SIMPLE or SEP – but not both.	If employers are unrelated or not affiliated, individual may make salary deferral contributions of up to $13,500 plus receive employer contributions in both SIMPLE accounts. However, total salary deferrals for both SIMPLEs cannot exceed $19,500. If employers are related or affiliated, all employees of both businesses must be covered under the same SIMPLE and contributions are limited to the amounts for one SIMPLE.
Profit Sharing or Money Purchase Pension Plan	If employers are unrelated or not affiliated, individual may receive up to $57,000 in the SEP IRA and receive up to $57,000 in the profit sharing and/or money purchase plan – totaling $114,000. If employers are related or affiliated, total contributions cannot exceed $57,000.	If employers are unrelated or not affiliated, individual may make salary deferral contributions of up to $13,500 plus receive employer contributions in the SIMPLE and receive up to $57,000 in the profit sharing and/or money purchase plan. If employers are related or affiliated, employees of both businesses must be covered under the same plan(s), SIMPLE or profit sharing and/or money purchase, but not both.
401(k) Plan / Roth 401(k)	If employers are unrelated or not affiliated, individual may receive up to $57,000 in the SEP and receive up to $57,000 in the 401(k) – totaling $114,000. If employers are related or affiliated, total contributions cannot exceed $57,000.	If employers are unrelated or not affiliated, individual may make salary deferral contributions of up to $13,500 plus receive employer contributions in the SIMPLE and receive up to $57,000 in the 401(k). Total salary deferral contributions to both plans cannot exceed $19,500. If employers are related or affiliated, employees of both businesses must be covered under the same plans – SIMPLE or 401(k) – but not both.
403(b) Plan / Roth 403(b)	If individual who owns the 403(b) is not the owner of the business that sponsors the SEP, the individual may receive up to $57,000 in the SEP and receive up to $57,000 in the 403(b) – totaling $114,000. If the individual who owns the 403(b) is the owner of the business that sponsors the SEP, total contributions to both accounts cannot exceed $57,000.	If individual who owns the 403(b) is not the owner of the business that sponsors the SIMPLE, the individual may make salary deferral contributions of up to $13,500 plus receive employer contributions in the SIMPLE and receive up to $57,000 in the 403(b) Total salary deferral contributions to both plans cannot exceed $19,500. If the individual who owns the 403(b) is also the owner of the business that sponsors the SIMPLE, the total contributions to both plans cannot exceed $57,000 if the SIMPLE is a SIMPLE 401(k) plan. SIMPLE IRAs are not subject to the $57,000 limit.
457(b) Plan / Roth 457(b)	Does not affect SEP contributions. Individual may receive up to $57,000 in the SEP and receive up to $19,500 in the 457(b). $19,500 may be salary deferral or a combination of salary deferral plus employer contributions.	Does not affect SIMPLE contributions. Individual may make salary deferral contributions up to $13,500 plus receive employer contributions in the SIMPLE and receive up to $19,500 in the 457(b). Individual may defer $13,500 to SIMPLE and contribute $19,500 to the 457(b) – totaling $33,000. $19,500 to 457(b) may be salary deferral or a combination of salary deferral plus employer contributions.

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Year 2020	Profit Sharing and/or Money Purchase Pension Plan	401(k) Plan/Roth 401(k)
Traditional IRA and/or Roth IRA	Does not affect profit sharing or money purchase contributions. Individual may receive up to $57,000 as profit sharing and/or money purchase contributions and contribute up to $6,000 to all Traditional/Roth IRAs.	Does not affect 401(k) contributions. Individual may receive up to $57,000 in employer and employee contributions to the 401(k) and contribute up to $6,000 to all Traditional/Roth IRAs.
SEP IRA	If employers are unrelated or not affiliated, individual may receive up to $57,000 in the profit sharing and/or money purchase plan and receive up to $57,000 in the SEP – totaling $114,000. If employers are related or affiliated, total contributions cannot exceed $57,000.	If employers are unrelated or not affiliated, individual may receive up to $57,000 in the 401(k) and receive up to $57,000 in the SEP – totaling $114,000. If employers are related or affiliated, total contributions cannot exceed $57,000.
SIMPLE IRA or SIMPLE 401(k)	If employers are unrelated or not affiliated, individual may receive up to $57,000 in the profit sharing and/or money purchase plan and make salary deferral contributions of up to $13,500 plus receive employer contributions to the SIMPLE. If employers are related or affiliated, total contributions cannot exceed $57,000 and employees of both businesses must be covered under the same plan(s) – profit sharing and/or money purchase or SIMPLE – but not both.	If employers are unrelated or not affiliated, individual may receive up to $57,000 in the 401(k) and make salary deferral contributions of up to $13,500 plus receive employer contributions to the SIMPLE. Total salary deferral contributions to both plans cannot exceed $19,500. If employers are related or affiliated, total contributions cannot exceed $57,000, and employees of both businesses must be covered under the same plan(s) – 401(k) or SIMPLE – but not both.
Profit Sharing and/or Money Purchase Pension Plan	If employers are unrelated or not affiliated, individual may receive up to $57,000 in each profit sharing and/or money purchase pension plan – totaling $114,000. If employers are related or affiliated, total contributions cannot exceed $57,000.	If employers are unrelated or not affiliated, individual may receive up to $57,000 in the 401(k) and receive up to $57,000 in the profit sharing and/or money purchase plan – totaling $114,000. If employers are related or affiliated, total contributions cannot exceed $57,000.
401(k) Plan / Roth 401(k)	If employers are unrelated or not affiliated, individual may receive up to $57,000 in the profit-sharing plan and/or money purchase plan and receive up to $57,000 in the 401(k) – totaling $114,000. If employers are related or affiliated, total contributions cannot exceed $57,000.	If employers are unrelated or not affiliated, individual may receive up to $57,000 in both 401(k) plan(s) – totaling $114,000. If the employers are related or affiliated, total contributions cannot exceed $57,000. Total salary deferral contributions to both plans cannot exceed $19,500.
403(b) Plan / Roth 403(b)	If individual who owns the 403(b) is not the owner of the business that sponsors the profit sharing and/or money purchase plan, the individual may receive up to $57,000 in the profit sharing and/or money purchase plan and receive up to $57,000 in the 403(b) – totaling $114,000. If the 403(b) owner is the owner of the business that sponsors the profit sharing and/or money purchase plan, the total contributions for the individual to both plans cannot exceed $57,000.	If individual who owns the 403(b) is not the owner of the business that sponsors the 401(k), the individual may receive up to $57,000 in the 401(k) and receive up to $57,000 in the 403(b) – totaling $114,000. Total salary deferral contributions to both plans cannot exceed $19,500. If the individual who owns the business that sponsors the 401(k) is also the owner of the 403(b), the total contributions to both plans cannot exceed $57,000.
457(b) Plan / Roth 457(b)	Does not affect profit sharing and/or money purchase contributions. $19,500 to 457(b) may be salary deferral or a combination of salary deferral plus employer contributions.	Does not affect 401(k) contributions. Total salary deferral can be up to $38,000 ($19,500 in each plan). $19,500 to 457(b) may be salary deferral or a combination of salary deferral plus employer contributions.

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Year 2020	403(b) Plan/Roth 403(b)	457(b) Plan/Roth 457(b)
Traditional IRA and/or Roth IRA	Does not affect 403(b) contributions. Individual may receive up to $57,000 in employer and employee contributions in the 403(b) and contribute up to $6,500 to all Traditional/Roth IRAs.	Does not affect 457(b) contributions. Individual may receive up to $19,500 in the 457(b) and contribute up to $6,500 to all Traditional/Roth IRA. $19,500 may be salary deferral or a combination of salary deferral plus employer contributions.
SEP IRA	If the individual who owns the 403(b) is not the owner of the business that sponsors the SEP, the individual may receive up to $57,000 in the 403(b) and receive up to $57,000 in the SEP – totaling $114,000. If the individual who owns the 403(b) is the owner of the business that sponsors the SEP, total contributions to both accounts cannot exceed $57,000.	Does not affect 457(b) contributions. Individual may receive up to $19,500 in the 457(b) and receive up to $57,000 in the SEP. $19,500 may be salary deferral or a combination of salary deferral plus employer contributions.
SIMPLE IRA or SIMPLE 401(k)	If individual who owns the 403(b) is not the owner of the business that sponsors the SIMPLE, the individual may receive up to $57,000 in the 403(b) and make salary deferral contributions up to $13,500 plus receive employer contributions in the SIMPLE. Total salary deferral contributions to both plans cannot exceed $19,500. If the individual who owns the 403(b) is also the owner of the business that sponsors the SIMPLE, the total contributions to both plans cannot exceed $57,000 if the SIMPLE is a SIMPLE 401(k) plan. SIMPLE IRAs are not subject to the $57,000 limit.	Does not affect 457(b) contributions. Individual may receive up to $19,500 in the 457(b) and make salary deferral contributions of up to $13,500 plus receive employer contributions in the SIMPLE. Individual may contribute $19,500 to the 457(b) and defer $13,500 to SIMPLE – totaling $33,000. $19,500 to 457(b) may be salary deferral or a combination of salary deferral plus employer contributions.
Profit Sharing or Money Purchase Pension Plan	If individual who owns the 403(b) is not the owner of the business that sponsors the profit sharing and/or money purchase plan, the individual may receive up to $57,000 in the 403(b) and receive up to $57,000 in the profit sharing and/or money purchase plan – totaling $114,000. If the 403(b) owner is the owner of the business that sponsors the profit sharing and/or money purchase plan, the total contributions for the individual to both plans cannot exceed $57,000.	Does not affect 457(b) contributions. Individual may receive up to $19,500 in the 457(b) & receive up to $57,000 in the profit sharing and/or money purchase plan. $19,500 to 457(b) may be salary deferral or a combination of salary deferral plus employer contributions.
401(k) Plan / Roth 401(k)	If individual who owns the 403(b) is not the owner of the business that sponsors the 401(k), the individual may receive up to $57,000 in the 403(b) and receive up to $57,000 in the 401(k) – totaling $114,000. Total salary deferral contributions to both plans cannot exceed $19,500. If the individual who owns the 403(b) is also the owner of the business that sponsors the 401(k), the total contributions to both plans cannot exceed $57,000.	Does not affect 457(b) contributions. Individual may receive up to $19,500 in the 457(b) and receive up to $57,000 in the 401(k). $19,500 to 457(b) may be salary deferral or a combination of salary deferral plus employer contributions. Total salary deferral can be up to $39,000 ($19,500 in each plan).
403(b) Plan / Roth 403(b)	Total contributions to both 403(b) plans cannot exceed $57,000. Total salary deferral contributions to both 403(b) plans cannot exceed $19,500.	Does not affect 457(b) contributions. Individual may receive up to $19,500 in the 457(b) and receive up to $57,000 in the 403(b). $19,500 to 457(b) may be salary deferral or a combination of salary deferral plus employer contributions. Total salary deferral can be up to $39,000 ($19,500 to each plan).
457(b) Plan / Roth 457(b)	Does not affect 403(b) contributions. Individual may receive up to $57,000 in the 403(b) and receive up to $19,500 in the 457(b). Total salary deferral can be up to $39,000 ($19,500 in each plan). $19,500 to 457(b) may be salary deferral or a combination of salary deferral plus employer contributions.	Individual may receive contributions of up to $19,500. $19,500 may be salary deferral or a combination of salary deferral plus employer contributions.

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