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Estate Planning for Retirement Assets: Taxation and Other Challenges

Maximizing Tax Benefits, Evaluating Beneficiary Designations, and Navigating Minimum Required Distribution Rules

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ESTATE PLANNING FOR RETIREMENT ASSETS AND OTHER CHALLENGES

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Estate Planning For Retirement Assets and Other Challenges

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I. Introduction

A substantial portion of the wealth possessed by Americans today consists of tax deferred retirement accounts such as traditional IRAs, 401(k)s and 403(b)s. In 2002 the IRS issued final regulations under IRC section 401(a)(9), clarifying and simplifying many of the rules applicable to retirement accounts. Treas. Reg. sections 1.401(a)(9)-0 through 1.401(a)(9)-9 and Treas. Reg. section 54.4974-2. These rules apply to 401(k)s, 403(b)s, and IRAs. Treas. Reg. section 1.403(b)-3; Treas. Reg. section 1.408-8. Roth IRAs and Roth 401(k)s are addressed in Sections III.D and III.E. This article does not address non-qualified retirement accounts, such as deferred compensation.

II. Retirement Accounts Present Unique Problems

In general, the receipt of inherited property is not subject to income tax. IRC section 102(a). The major exception to this rule is retirement accounts, as these accounts represent income that has not been previously taxed. After a taxpayer's death, income tax will be due on the amount withdrawn from the taxpayer's retirement account. IRC section 402(a). When dealing with retirement accounts, the primary goal is to allow the taxpayer's beneficiaries the opportunity to defer this income tax for as long as possible.

An estate planning attorney must deal with all of the following issues regarding a client's retirement accounts:

- Who will be the primary and contingent beneficiary?
- How long can the beneficiary defer withdrawals from the account and the attendant income tax liability?
- Is there is a compelling reason to name a trust as a beneficiary?
- Do any retirement account proceeds passing to a spouse, in trust, qualify for the marital deduction? (See Rev. Rul. 2006-26)
- What is the most tax efficient source of payment for estate taxes on the retirement account?

III. Distribution Rules During Life and After Death

A. Distributions During The Taxpayer's Lifetime and Charitable IRA Rollovers

The required minimum distribution ("RMD") rules specify how long a taxpayer (and after the taxpayer's death, the beneficiary) may defer withdrawals from retirement accounts. IRC section 401(a)(9). During life, the taxpayer must generally begin taking withdrawals by April 1 of the year after the taxpayer reaches age 70 ½. This date is referred to as the required beginning date ("RBD"). An IRS table that takes into account the taxpayer's life expectancy sets the RMD amount the taxpayer must withdraw in each year after the RBD. Treas. Reg. section 1.401(a)(9)-5.

Charitable IRA Rollovers

Until recently only distributions to the account owner were allowed during the account owner's lifetime – the owner could not assign any portion of a retirement account directly to a third party. Certain distributions may now be made directly to charities. The Pension Protection Act of 2006 added IRC section 408(d)(8), which excludes from gross income "qualified charitable distributions" from traditional and Roth IRAs, of amounts up to $100,000. Some of the key points of this "charitable IRA rollover" legislation are as follows: (i) the provision is only effective for distributions made in 2006 and 2007, (ii) it does not apply to a distribution from a qualified plan, including a 401(k), 403(b), defined benefit plan, profit sharing plan, Keogh, or an employer sponsored SEP or SIMPLE, (iii) the taxpayer must be at least 70 ½ on the date of distribution, (iv) no income tax deduction is allowed as the distribution is never included in gross income, (v) the distribution must be made to a public charity or private operating foundation (not a typical nonoperating private foundation, donor advised fund or supporting organization), (vi) the distribution cannot be in exchange for a gift annuity or split-interest trust, (vii) the distribution must pass directly to the charity, (viii) a substantiation letter is required, and (ix) the qualified charitable distribution may be used to satisfy the account owner's RMD. A beneficiary of an inherited IRA may also make a qualified charitable distribution. Notice 2007-7, Q-37. A qualified charitable distribution may be attractive for (i) donors who do not itemize their deductions (nearly 2/3 of Americans claim the standard deduction), (ii) donors in states with no state income tax charitable deduction (Indiana, Michigan, New Jersey, Ohio, Massachusetts, and West Virginia), (iii) donors who are subject to the 50% of AGI limitation, and (iv) donors who may benefit from keeping their AGI lower (for taxability of social security payments, deductibility of medical expenses, miscellaneous itemized deductions, phase-out of itemized deductions and child tax credit, and application of AMT). For taxpayers who itemize and can claim an offsetting charitable income tax deduction, it will often be administratively easier to take a distribution from the IRA and then make a charitable gift.

Update – On October 3, 2008, Congress passed the Emergency Economic Stabilization Act of 2008, which made no changes to the substance of the charitable IRA rollover rules, but extended the applicability of the law to gifts made in 2008 and 2009.

Update – On December 17, 2010, Congress passed the Tax Relief, Unemployment Insurance Reauthorization, And Job Creation Act of 2010, which made no changes to the substance of the charitable IRA rollover rules, but extended the applicability of the law to gifts made in 2011 and 2012.

B. Distributions After Death if Spouse is Beneficiary (Spousal Rollovers)

A taxpayer can obtain the most favorable income tax results by naming the taxpayer's spouse directly as the primary beneficiary. A surviving spouse is the only person who has the option of rolling over an inherited retirement account into his/her own IRA and treating the IRA as the spouse's own. IRC section 402(c)(9) (qualified plans); IRC section 408(d)(3)(C)(ii) (IRAs). [As explained in Section III.F non-spouses may now rollover certain qualified plan accounts, but the rollover will be treated as an inherited IRA.] Often the simplest way to accomplish the rollover is to retitle the account into the surviving spouse's name. By rolling over the account, the surviving spouse can defer withdrawals from the account until the spouse turns 70 ½ (any other beneficiary must begin taking withdrawals the year after the taxpayer's death). In addition, the spouse can name his/her own beneficiaries of the IRA that may use a life expectancy payout. When other beneficiaries die, the RMD continues to be based on the deceased beneficiary's life expectancy.

C. Distributions After Death if a Non-Spouse is Beneficiary

If someone other than the spouse is the beneficiary, the beneficiary's RMD depends on whether there is a "Designated Beneficiary" of the account, as that term is specifically defined in Treasury Regulation section 1.401(a)(9)-5. Although individuals are Designated Beneficiaries, estates, states, charities, and business entities are not Designated Beneficiaries. Treas. Reg. section 1.401(a)(9)-4.

If there is a Designated Beneficiary and the taxpayer died <u>before</u> the taxpayer's RBD, then the beneficiary's RMD is based on an IRS table that takes into account the beneficiary's life expectancy. If there is a Designated Beneficiary and the taxpayer died <u>after</u> the taxpayer's RBD, then the beneficiary's RMD is based on an IRS table that takes into account the longer of the (i) beneficiary's life expectancy or (ii) taxpayer's life expectancy. See Treas. Reg. section 1.401(a)(9)-9 for the IRS tables.

If there is <u>no</u> Designated Beneficiary and the taxpayer died <u>before</u> the taxpayer's RBD, then the beneficiary must withdraw all of the retirement account within 5 years of the taxpayer's death. If there is <u>no</u> Designated Beneficiary and the taxpayer died <u>after</u> the taxpayer's RBD, then the beneficiary's RMD is based on an IRS table that takes into account the deceased taxpayer's life expectancy. Treas. Reg. section 1.401(a)(9)-5, A-5(a)(2).

The beneficiary may withdraw more than the RMD, but the beneficiary must withdraw at least the RMD each year to avoid a penalty. When a beneficiary takes his RMD based on his life expectancy it is often referred to as a "stretch." Although life expectancy payouts

in IRAs are common, not all IRAs offer this option. Most qualified plans do not allow a life expectancy payout option, as they typically require a lump sum distribution upon death.

D. Roth IRAs

Due to the elimination of the $100,000 income limitation on who can convert a traditional IRA to a Roth IRA in 2010 and future years, there may be more large Roth IRAs coming soon. IRC section 408A(c)(3)(B). See Exhibit A for information on converting to a Roth IRA. The RMDs explained above do not apply to Roth IRAs while the account owner is alive, but RMDs are required after the account owner dies (i.e. the beneficiaries of a Roth IRA are required to take RMDs). IRC section 408A(c)(5). The RMD rules apply to the beneficiaries of a Roth IRA as if the account owner had died before his required beginning date. Treas. Reg. section 1.408A-6, A-14(b).

Unlike traditional IRAs, qualified distributions from Roth IRAs are not subject to income tax. IRC Section 408A. However, it is still important to optimize how long beneficiaries of a Roth IRA can defer withdrawals. The benefit of deferring withdrawals from Roth IRAs for as long possible, is that the assets in the account can continue to grow income tax free. In this regard, the advice herein for qualifying the beneficiary of a traditional IRA as a "Designated Beneficiary" also applies to Roth IRAs.

Clients should think carefully before naming a charity as beneficiary of a Roth IRA, as prepaying income taxes on assets being left to an income tax exempt charity is not tax efficient. Compared to a traditional IRA, it is more tax efficient to name grandchildren as beneficiaries of a Roth IRA, as no part of the account will be wasted on the payment of generation-skipping transfer (GST) taxes (or if the client will allocate GST exemption to the account, no GST exemption will be wasted on assets of the account that must go towards the payment of income taxes – as would be the case with a traditional IRA).

As Roth IRA distributions are not subject to income taxes, some commentators suggest that a Roth IRA is an excellent growth asset with which to fund a credit shelter trust. However, as discussed later, drafting the credit shelter trust to ensure you can use the spouse's life expectancy for the RMDs can be complicated.

The remainder of this article does not specifically address Roth IRAs.

E. Roth 401(k)s

Starting in 2006, taxpayers have the option of contributing to a Roth 401(k) or 403(b) if the taxpayer's employer has such a plan. IRC 402A. These are sometimes referred to as designated Roth accounts (DRACs). A DRAC is treated like a 401(k) (or 403(b)) except that contributions to the account are not excluded from gross income, and qualified distributions from the account are tax-free. For example, DRACs are subject to the same lifetime and post-death RMDs as 401(k)s. However, the lifetime RMDs can be stopped by rolling over the DRAC into a Roth IRA. Treas. Reg. section 1.401(k)-1(f)(3); Reg.

section 1.402A-1, A-5(a). The advice for naming beneficiaries of Roth IRAs, described above, also applies to DRACs.

F. Non-Spouse Rollovers

The Pension Protection Act of 2006 added IRC section 402(c)(11), which, beginning January 1, 2007, allows a non-spouse Designated Beneficiary to rollover a qualified plan account into an IRA by a trustee to trustee transfer. Under prior law, a common approach was to name the client's revocable trust as the contingent beneficiary of a qualified plan that did not allow a life expectancy payout. It is now important to ensure each beneficiary of a qualified plan is a Designated Beneficiary. This rollover is not as favorable as the spousal rollover, as the non-spouse rollover is treated as an inherited IRA, not as the non-spouse's contributory IRA. The only benefit to the non-spouse rollover is the ability to transfer the account to an IRA that allows a life expectancy payout option.

The IRS has already issued two clarifications of this law. On January 10, 2007 they issued Notice 2007-7, and on February 13, 2007 they issued a special edition of Employee Plans News to respond to the confusion caused by the Notice. These IRS clarifications raise several concerns. First, the qualified plan does not have to allow the non-spouse rollover. If the plan does not allow the rollover, there is nothing the beneficiaries can do. This undermines the intent of the legislation to give non-spouse beneficiaries of a qualified plan a way to obtain a life expectancy payout. It is unclear whether the plan must be amended to explicitly allow the rollover. Second, to use a life expectancy payout the rollover must be completed by the end of the calendar year after the year of death, and the first required distribution must also be taken by this same date. If the rollover is not completed by the deadline, the beneficiaries must take distributions according to any plan rules that are more restrictive than a life expectancy payout, such as a 5-year payout. Third, the amount of the beneficiary's first RMD (and any other undistributed RMDs) cannot be rolled over. Fourth, the rollover account must be properly titled identifying both the deceased account owner and the beneficiary. Due to these complications, it is still best to rollover a qualified plan to an IRA during the taxpayer's lifetime, to assure the availability of a life expectancy payout for the beneficiaries.

Update – For plan years beginning after December 31, 2009, qualified plans must allow non-spouse rollovers. See IRC Section 402(f).

G. Separate Accounts and Multiple Beneficiaries

If there are multiple beneficiaries of a retirement account, you are deemed to have no Designated Beneficiary, unless all of your beneficiaries are individuals. Treas. Reg. section 1.401(a)(9)-4, A-3. If all of the beneficiaries are individuals, then the RMD is based on the life expectancy of the oldest beneficiary. Treas. Reg. section 1.401(a)(9)-5, A-7(a)(1).

However, if separate accounts are "established" for multiple beneficiaries prior to December 31 of the year after the calendar year of the taxpayer's death, then the RMD

rules will apply separately to each such separate account. Treas. Reg. section 1.401(a)(9)-4, A-5(c); Treas. Reg. section 1.401(a)(9)-8, A-2(a)(2). A separate account allows you to calculate the RMD based on the life expectancy of the oldest beneficiary of such separate account (and allows you to ignore a non-individual beneficiary of a different account). To establish separate accounts the beneficiaries interests must be fractional (i.e. not pecuniary). In addition, some affirmative act must establish the separate accounts, such as a physical division of a single account into completely separate accounts or using separate account language on the beneficiary designation form. Whenever possible, it is best to create the separate accounts with appropriate language directly on the beneficiary designation form. See the sample language in the Recommended Beneficiaries in a Typical 1st Marriage Section herein.

H. Eliminating Unwanted Beneficiaries Prior To September 30th

The deadline for determining who are the initial beneficiaries of a retirement account is the date of the taxpayer's death. However, between the taxpayer's death and September 30th of the following year, troublesome or non-individual beneficiaries may be removed by disclaiming the interest (pursuant to a disclaimer that satisfies IRC section 2518), creating separate accounts, or eliminating them as beneficiaries by distributing their benefits outright to them. Treas. Reg. section 1.401(a)(9)-4, A-4(a).

I. Recommended Beneficiaries in a Typical 1st Marriage

In a typical first marriage situation (when funding a credit shelter trust is not at issue), the spouse should be named as the primary beneficiary and the adult children as the contingent beneficiaries. If there is a minor child, then a transfers to minors account is a wise alternative. Consider the following language:

> The total account assets shall be divided to provide one equal share of the account, as of my date of death, for each of my children who is either living on my date of death or is deceased on my date of death but who has one or more descendants living on my date of death. Any share created for a deceased child of mine shall be divided into separate shares for such deceased child's descendants, per stirpes. Each such share created for a descendant of mine who has not attained the age of twenty-one (21) shall be held by ________________, as a custodian for the descendant under the [state of residency] Transfers to Minors Act or similar minor's custodian law of any state where the minor then resides.
>
> Each of my beneficiaries designated above, shall have the right (with respect to the death benefits as to which that beneficiary is then the Designated Beneficiary) to elect any method of payment available.
>
> The assets of my account shall be segregated, effective as of the date of my death, into separate subaccounts, one for the share representing each beneficiary, so that all postdeath investment gains, losses, contributions and forfeitures are

determined separately for each subaccount. Each beneficiary shall have the right to direct changes to investments held in his or her separate subaccount.

This language has three benefits: (i) it ensures a deceased child's portion of the account will pass to the deceased child's children, not to the deceased child's siblings or probate estate, (ii) it ensures the beneficiaries will receive separate account treatment as explained above, and (iii) it provides that a named custodian will have legal authority to handle a minor's portion of the account, thereby avoiding the need to establish a formal conservatorship. However, a custodian of a Transfers to Minors Act account must distribute all of the custodial assets outright to the beneficiary at age 18 or 21, depending on state law. If a client wishes to defer the descendant's control of the account until a later age, then a trust may be appropriate.

J. When A Life Expectancy Payout Is Not Important

There are a number of instances when income tax deferral is not important. Income tax deferral will not be important if the beneficiary will withdraw the entire account upon the taxpayer's death for an immediate need, such as to pay estate taxes or to support minor children. Income tax deferral will not be a major consideration if the size of the account is so small that a withdrawal of the entire account will not cause a substantial amount of additional income tax. If the beneficiary is near the taxpayer's age and the taxpayer is over age 70 ½, then naming a Designated Beneficiary will not have a significant effect on the RMD, as the account must be withdrawn over the same time period whether or not the beneficiary is a Designated Beneficiary. Finally, naming a Designated Beneficiary is not an issue if the taxpayer names only charitable organizations as beneficiaries, as the income of charitable organizations is not subject to tax. IRC Section 501(a).

K. Charities as Beneficiaries

As charities are exempt from the income tax, they are the ideal beneficiaries of retirement accounts for clients with charitable desires. The retirement account benefits are actually worth more to the charity than other beneficiaries due to this exemption from income taxes. At the planning stage clients have a choice of assets to use to fund their charitable bequests. Attorneys should structure charitable bequests in an estate plan in the most tax efficient way, which usually means utilizing retirement accounts.

1. Name Charities Directly on Beneficiary Designation Form

To avoid adverse tax consequences, charitable bequests of retirement account assets should almost always be made directly on the beneficiary designation form, as opposed to under a will or trust. If there will be multiple beneficiaries of the account, then care must be taken to make sure the charitable beneficiary will not disqualify the other beneficiaries from using a life expectancy payout. There are three ways to avoid losing the life expectancy payout option. First, the client may divide his retirement account into separate accounts during his lifetime. One account would contain the assets that will pass to charity upon death and the other account would hold the excess. The charity would be

named as the beneficiary of all of the first account, and would have no interest in the second account. This would qualify as a separate account and the charity would not effect the other beneficiaries' use of a life expectancy payout. Second, separate accounts can be created after death by either using the proper language on the beneficiary designation form or physically dividing the assets into separate accounts prior to December 31 of the year after the calendar year of the taxpayer's death. To qualify for separate account treatment, the charity must be a beneficiary as to a percentage of the account, not a pecuniary (i.e. dollar) amount. The third way to ensure a stretch option is available is to pay off the charity prior to September 30 of the year after the taxpayer's death. Note that this third option is available even if the charity is to receive a pecuniary amount. The drawback to this option is that the September 30 deadline may be missed.

If the spouse is the only other beneficiary of the retirement account, then ensuring a stretch is not important as the spouse can rollover the proceeds into his/her own IRA.

2. When the Charity Must Be Named in the Will or Trust

In some situations, the charity cannot be named directly on the beneficiary designation form, such as when a detailed formula must be used that the retirement account custodian will not accept on a beneficiary designation form or attachment. In these situations the charitable bequest must be made in the will or trust. There are two important issues to be aware of when naming a charity as a beneficiary under a will or trust.

First, it is important to maintain the ability of the noncharitable trust beneficiaries to use a life expectancy payout option. The second issue is ensuring the trust receives an income tax deduction for a distribution to charity, or ensuring the trust never recognizes any income to begin with. Both of these issues are extremely complicated and beyond the scope of this outline. Whenever possible avoid charitable distributions of retirement accounts through wills and trusts, and make the distributions directly on the beneficiary designation form.

EXHIBIT A
CONVERTING TO A ROTH IRA
(SAMPLE CLIENT MEMO)

Background. Beginning in 2010, there is no longer an income limitation on converting a traditional IRA to a Roth IRA. Converting to a Roth IRA will trigger additional income tax. The amount of the tax is equal to the fair market value of your IRA on the date of conversion less any nondeductible contributions. For conversions made in 2010 *only*, you could split the income and include half on each of your 2011 and 2012 income tax returns.

Distributions from the new Roth IRA will be income tax free, subject to the five year rule described below. By converting to a Roth IRA you are essentially prepaying the income taxes that would otherwise be due when withdrawals are made from the account (withdrawals are required after age 70 1/2, which are referred to as the required minimum distributions (RMDs)).

Benefits of a Conversion. At first glance, whether to convert would seem to be a simple question. If you expect to be in a higher tax bracket in the future, convert to a Roth and prepay the income taxes at the current lower rate. If you expect to be in a lower tax bracket during retirement, stick with the traditional IRA. However, Roth IRAs have two advantages over traditional IRAs that can make it worthwhile to convert even if you expect your tax rates to fall during retirement. First, to the extent you can pay the income taxes on the conversion from taxable assets (not an IRA or other retirement account), then you can shift more wealth to an income tax-free savings vehicle. Second, Roth IRAs do not have RMDs so Roth IRAs can grow income tax-free for a longer time.

Both of these advantages are due to the fact that both traditional and Roth IRAs are income tax exempt vehicles (for traditional IRAs income taxes are only deferred; taxes will eventually be due when distributions are made to the owner or beneficiary). You do not have to immediately pay income taxes on the earnings (interest, dividends, capital gains, etc.) inside these accounts, so the more money you can accumulate in them and the longer you can keep the money in them, the greater the benefit to you or your family.

The Perfect Situation. The one situation in which it will almost always make sense to couvert is if (i) you can pay the income taxes on the conversion from non-retirement account assets, (ii) you will never need to take a distribution from the Roth IRA for living expenses or any other reason, (iii) you are leaving the IRA to individual beneficiaries whom you expect to stretch out distributions over the beneficiary's life expectancy, and (iv) you have significant enough family wealth that you expect to be paying estate taxes and you do not expect your income tax rate during retirement to decline.

Recharacterizing. The tax laws also allow you to undo a conversion by "recharacterizing" the Roth IRA back to a traditional IRA. A recharachterization must be done on or before the due date (including extensions) for filing the your Federal income tax return for the taxable year in which the conversion was made. Treas. Reg. Section 1.408A-5, Q&A-6(b). In most cases, this will be October 15 of the year following the conversion – the extended due date for income tax returns. For conversion made in 2011, the recharacterization deadline is October 17, 2012, as October 15 is a Saturday. If the value of your Roth IRA has significantly declined between the date of conversion and the October 15/17 deadline, it may make sense to recharacterize and then convert again the following year at a lower tax cost (a recharacterization cannot be reconverted in the same tax year as the original conversion and also cannot be reconverted within 30 days of the recharacterization).

Your Age. In general, the younger you are the more likely converting to a Roth IRA will be beneficial, as there will be more time to reap the benefits of tax-free growth inside the Roth IRA. However, if you fall into the "Perfect Situation" category above and will never need to take a distribution from the IRA, then your analysis should be whether the Roth IRA conversion is beneficial to your family (or the beneficiaries of your estate plan). If you convert to a Roth IRA today and pass away tomorrow, there could still be a large benefit to your descendants if they stretch out the distributions over their life expectancies.

Estate Taxes. You may wonder how this analysis changes if you expect to be paying estate taxes. In 2011 the gift/estate tax exemption is $5,000,000 per person with a tax rate of 35%. The income taxes paid on converting to a Roth IRA reduces the size of your estate that will be subject to estate tax. If you do not convert there is an income tax deduction for the estate taxes paid on IRA assets. The beneficiaries of the IRA will use a portion of the deduction each year they take a withdrawal from the IRA until the total deduction is used up. This will offset the double taxation of the IRA, *except to the extent* there is also a state estate tax, as there is no federal deduction for *state* estate taxes paid. Due to state estate taxes, you may be better off converting to a Roth IRA if you expect to be paying estate taxes.

Five Year Rules. Only distributions of your contributions (not the earnings on the contributions) are tax-free during the five-year period beginning on January 1 of the first year you open *any* Roth IRA. If your Roth IRA conversion in 2011 is your first Roth IRA, then distributions of "earnings" (interest, dividends, or gain earned after the conversion) will not be tax free until after 2015. If you are under 59 ½ at the time of the distribution, then there will also be a 10% penalty on any distribution of earnings during the five year period.

A separate five-year rule applies specifically with respect to a conversion to a Roth IRA. If a distribution is made to you within five years of the year of the conversion, then the 10% penalty will apply even if the distribution is not subject to income tax (i.e. even if you are not distributing any earnings), unless you are over age 59 ½ at the time of the distribution. For example, if you are 50 years old, convert to a Roth IRA, and pay the taxes out of the converted Roth IRA, then you will owe a 10% penalty on the amount used to pay the tax (it is considered a deemed distribution to you). This five year rule applies separately for every year in which a Roth IRA conversion occurs.

Complicated Fact-Sensitive Investment Decision. Deciding whether a Roth IRA conversion makes sense should be made with the joint input of your financial advisor, accountant, and estate planning attorney. However, this is primarily an investment decision. Preferably, your financial advisor can "run the numbers" and forecast the expected advantage or disadvantage to the conversion by making certain spending, tax rate, and other assumptions.

With the currently low income tax rates, converting to a Roth IRA in 2011 may be a valuable opportunity. The ability to "undo" it all next year with a recharacterization makes it even more enticing. However, there are significant traps for the unwary in making this decision.

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Exhibit B

Life Expectancy from Single Life Expectancy Table
(Applicable to Beneficiaries of Retirement Plan)
See Treas. Reg. Section 1.401(a)(9)-9

Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy
0	82.4	35	48.5	70	17	105	1.9
1	81.6	36	47.5	71	16.3	106	1.7
2	80.6	37	46.5	72	15.5	107	1.5
3	79.7	38	45.6	73	14.8	108	1.4
4	78.7	39	44.6	74	14.1	109	1.2
5	77.7	40	43.6	75	13.4	110	1.1
6	76.7	41	42.7	76	12.7	111+	1
7	75.8	42	41.7	77	12.1		
8	74.8	43	40.7	78	11.4		
9	73.8	44	39.8	79	10.8		
10	72.8	45	38.8	80	10.2		
11	71.8	46	37.9	81	9.7		
12	70.8	47	37	82	9.1		
13	69.9	48	36	83	8.6		
14	68.9	49	35.1	84	8.1		
15	67.9	50	34.2	85	7.6		
16	66.9	51	33.3	86	7.1		
17	66	52	32.3	87	6.7		
18	65	53	31.4	88	6.3		
19	64	54	30.5	89	5.9		
20	63	55	29.6	90	5.5		
21	62.1	56	28.7	91	5.2		
22	61.1	57	27.9	92	4.9		
23	60.1	58	27	93	4.6		
24	59.1	59	26.1	94	4.3		
25	58.2	60	25.2	95	4.1		
26	57.2	61	24.4	96	3.8		
27	56.2	62	23.5	97	3.6		
28	55.3	63	22.7	98	3.4		
29	54.3	64	21.8	99	3.1		
30	53.3	65	21	100	2.9		
31	52.4	66	20.2	101	2.7		
32	51.4	67	19.4	102	2.5		
33	50.4	68	18.6	103	2.3		
34	49.4	69	17.8	104	2.1		

Exhibit C

Required Minimum Distributions Under a Life Expectancy Payout
After the Death of the Original Account Owner
(Assuming only the RMD is withdrawn from the account each year)

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Year	Beneficiary's Age	FMV of IRA on 1st Day of Year	Growth (income and appreciation)*	Life Expectancy (divisor)	RMD	RMD as a Percentage of the Trust FMV	FMV on Last Day of Year
		*	8.00%				
2011	10	1,000,000	80,000				1,080,000
2012	11	1,080,000	86,400	71.8	15,042	1.393%	1,151,358
2013	12	1,151,358	92,109	70.8	16,262	1.412%	1,227,205
2014	13	1,227,205	98,176	69.8	17,582	1.433%	1,307,799
2015	14	1,307,799	104,624	68.8	19,009	1.453%	1,393,415
2016	15	1,393,415	111,473	67.8	20,552	1.475%	1,484,336
2017	16	1,484,336	118,747	66.8	22,221	1.497%	1,580,862
2018	17	1,580,862	126,469	65.8	24,025	1.520%	1,683,306
2019	18	1,683,306	134,664	64.8	25,977	1.543%	1,791,994
2020	19	1,791,994	143,359	63.8	28,088	1.567%	1,907,265
2021	20	1,907,265	152,581	62.8	30,370	1.592%	2,029,476
2022	21	2,029,476	162,358	61.8	32,839	1.618%	2,158,995
2023	22	2,158,995	172,720	60.8	35,510	1.645%	2,296,205
2024	23	2,296,205	183,696	59.8	38,398	1.672%	2,441,503
2025	24	2,441,503	195,320	58.8	41,522	1.701%	2,595,301
2026	25	2,595,301	207,624	57.8	44,901	1.730%	2,758,024
2027	26	2,758,024	220,642	56.8	48,557	1.761%	2,930,109
2028	27	2,930,109	234,409	55.8	52,511	1.792%	3,112,006
2029	28	3,112,006	248,961	54.8	56,788	1.825%	3,304,179
2030	29	3,304,179	264,334	53.8	61,416	1.859%	3,507,097
2031	30	3,507,097	280,568	52.8	66,422	1.894%	3,721,242
2032	31	3,721,242	297,699	51.8	71,839	1.931%	3,947,103
2033	32	3,947,103	315,768	50.8	77,699	1.969%	4,185,172
2034	33	4,185,172	334,814	49.8	84,040	2.008%	4,435,947
2035	34	4,435,947	354,876	48.8	90,901	2.049%	4,699,922
2036	35	4,699,922	375,994	47.8	98,325	2.092%	4,977,591
2037	36	4,977,591	398,207	46.8	106,359	2.137%	5,269,439
2038	37	5,269,439	421,555	45.8	115,053	2.183%	5,575,941
2039	38	5,575,941	446,075	44.8	124,463	2.232%	5,897,554
2040	39	5,897,554	471,804	43.8	134,647	2.283%	6,234,711
2041	40	6,234,711	498,777	42.8	145,671	2.336%	6,587,817
2042	41	6,587,817	527,025	41.8	157,603	2.392%	6,957,239
2043	42	6,957,239	556,579	40.8	170,521	2.451%	7,343,297
2044	43	7,343,297	587,464	39.8	184,505	2.513%	7,746,256
2045	44	7,746,256	619,700	38.8	199,646	2.577%	8,166,311
2046	45	8,166,311	653,305	37.8	216,040	2.646%	8,603,576
2047	46	8,603,576	688,286	36.8	233,793	2.717%	9,058,069
2048	47	9,058,069	724,646	35.8	253,019	2.793%	9,529,696

2049	48	9,529,696	762,376	34.8	273,842	2.874%	10,018,229
2050	49	10,018,229	801,458	33.8	296,397	2.959%	10,523,290
2051	50	10,523,290	841,863	32.8	320,832	3.049%	11,044,322
2052	51	11,044,322	883,546	31.8	347,306	3.145%	11,580,562
2053	52	11,580,562	926,445	30.8	375,992	3.247%	12,131,014
2054	53	12,131,014	970,481	29.8	407,081	3.356%	12,694,414
2055	54	12,694,414	1,015,553	28.8	440,778	3.472%	13,269,189
2056	55	13,269,189	1,061,535	27.8	477,309	3.597%	13,853,416
2057	56	13,853,416	1,108,273	26.8	516,918	3.731%	14,444,770
2058	57	14,444,770	1,155,582	25.8	559,875	3.876%	15,040,477
2059	58	15,040,477	1,203,238	24.8	606,471	4.032%	15,637,244
2060	59	15,637,244	1,250,980	23.8	657,027	4.202%	16,231,197
2061	60	16,231,197	1,298,496	22.8	711,895	4.386%	16,817,798
2062	61	16,817,798	1,345,424	21.8	771,459	4.587%	17,391,763
2063	62	17,391,763	1,391,341	20.8	836,142	4.808%	17,946,962
2064	63	17,946,962	1,435,757	19.8	906,412	5.051%	18,476,307
2065	64	18,476,307	1,478,105	18.8	982,782	5.319%	18,971,629
2066	65	18,971,629	1,517,730	17.8	1,065,822	5.618%	19,423,537
2067	66	19,423,537	1,553,883	16.8	1,156,163	5.952%	19,821,257
2068	67	19,821,257	1,585,701	15.8	1,254,510	6.329%	20,152,448
2069	68	20,152,448	1,612,196	14.8	1,361,652	6.757%	20,402,992
2070	69	20,402,992	1,632,239	13.8	1,478,478	7.246%	20,556,754
2071	70	20,556,754	1,644,540	12.8	1,605,996	7.813%	20,595,298
2072	71	20,595,298	1,647,624	11.8	1,745,364	8.475%	20,497,557
2073	72	20,497,557	1,639,805	10.8	1,897,922	9.259%	20,239,440
2074	73	20,239,440	1,619,155	9.8	2,065,249	10.204%	19,793,346
2075	74	19,793,346	1,583,468	8.8	2,249,244	11.364%	19,127,570
2076	75	19,127,570	1,530,206	7.8	2,452,253	12.821%	18,205,523
2077	76	18,205,523	1,456,442	6.8	2,677,283	14.706%	16,984,682
2078	77	16,984,682	1,358,775	5.8	2,928,393	17.241%	15,415,063
2079	78	15,415,063	1,233,205	4.8	3,211,471	20.833%	13,436,797
2080	79	13,436,797	1,074,944	3.8	3,535,999	26.316%	10,975,741
2081	80	10,975,741	878,059	2.8	3,919,908	35.714%	7,933,893
2082	81	7,933,893	634,711	1.8	4,407,718	55.556%	4,160,886
2083	82	4,160,886	332,871	0.8	5,201,108	125.000%	(707,351)

Assumptions:

1. Joe Smith died on January 1, 2011 at the age of 40 with one living child (Junior Smith).
2. Junior Smith turned 10 years old on January 1, 2011.
3. The sole primary beneficiary of Joe's IRA was Junior.
4. Joe Smith owned a $1 million (date of death) IRA.
5. As Joe died during calendar year 2011, he must first take a RMD for 2012 and the deadline for taking the RMD is December 31, 2012.