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No bankruptcy protection for inherited IRAs

Your retirement funds are protected from creditors even if you file for bankruptcy, with only a few limitations. This protection extends to funds in all government-qualified pension plans, including IRAs (traditional and Roth), 401(k)s, 403(b)s, Keoghs, profit sharing, money purchase, and defined benefit plans. A recent U.S. Supreme Court decision has held, however, that an inherited IRA is not a “retirement fund” and therefore doesn’t qualify for bankruptcy protection.

An inherited IRA is a traditional or Roth IRA that a deceased owner has bequeathed to a beneficiary. It differs from a “true” retirement account in three ways:

1. The beneficiary is not allowed to contribute additional retirement funds to the inherited IRA.
2. The beneficiary, regardless of age, may withdraw funds from an inherited IRA in any amount and at any time without penalty.
3. The beneficiary, regardless of age, is required to take annual minimum distributions from any inherited IRA.

Based on the above characteristics, the Court unanimously concluded that with respect to beneficiaries, inherited IRAs are “not funds objectively set aside for one’s retirement” and instead constitute a “pot of money that can be used freely for current consumption.”

Although the Court didn’t specifically address it, there is a possible option available if (and only if) the beneficiary is the spouse of the decedent. Spouses are permitted to roll over funds from inherited IRAs into their own IRAs, which would presumably bring those funds back under bankruptcy protection. The funds would, however, become subject to the rules that apply to non-inherited IRAs, such as penalties for withdrawals before age 59½.

Certain other strategies may be available if you have inherited or are likely to inherit an IRA and you are interested in possible bankruptcy protection. Call us for an appointment to discuss your options.

Some very last-minute tax moves to consider

There’s not much time left to make tax-saving moves for 2014. Some ideas to consider:

- Make your January mortgage payment before December 31 to squeeze an extra interest deduction into 2014.
- Make tax-free gifts to use your annual gift tax exclusion for 2014. This year you can give up to \$14,000 to as many individuals as you like without tax consequences. These gifts to individuals are not deductible by you; nor are they taxable to the recipients.

- Sell appreciated stock to offset capital losses taken earlier in the year and vice versa. Any excess loss can offset up to \$3,000 of ordinary income in 2014, and losses greater than that can be carried to future years.
- Use your credit card to pay tax-deductible expenses by December 31 if you're short of cash. You can deduct the expenses on your 2014 return even though you pay your credit card bill in 2015.
- If you're required to take a minimum distribution from your retirement plan, do so by December 31 or you face a 50% penalty. If you just turned 70½ this year, you could wait until April 1, 2015, to take a first distribution.
- If a wedding or divorce is in your year-end plans, be aware that your marital status as of December 31 determines your tax status for the whole year. Changing the dates of a year-end event may save taxes.

To discuss these or other tax-cutting moves you might want to consider, give us a call now before it's too late to act.

Setting your salary: *What's the right amount for a small business owner?*

One of the greatest perks of owning a small business is flexibility. You can set your own hours and salary. You can plot the firm's trajectory without consulting your boss, upper management, or even corporate policy. But that same flexibility may become a curse if handled unwisely. A small business owner without discipline and a well-thought-out strategy may fall into serious financial trouble. Employees in larger firms often rely on the human resources department to establish pay scales, retirement plans, and health insurance policies. In a small company, all those choices – and many more – fall to the owner, including decisions about personal compensation.

While there's not a one-size-fits-all formula for determining how much to pay yourself as a business owner, here are three factors to consider:

- **Personal expenses.** Determine how much you're willing to draw from personal savings to keep your household afloat as the company grows. For a start-up company, owner compensation may be minimal. Beware, however, of going too long without paying yourself a reasonable salary. Be sure to document that you're in business to make a profit; otherwise the IRS may view your perpetually unprofitable business as a hobby aimed at avoiding taxes.
- **The market.** If you were working for someone else, what would they pay for your skills and knowledge? Start by answering that question; then discuss salary levels with small business groups and colleagues in your geographic area and industry. Check out the Department of Labor and Small Business Administration websites. In the early stages of your business, you probably won't draw a salary that's commensurate with the higher range of salaries, but at least you'll learn what's reasonable.
- **Affordability.** Review and continually update your firm's cash flow projections to determine the salary level you can reasonably sustain while keeping the business profitable. As the company grows, that level can be adjusted upward.

For assistance with this issue or other business concerns, contact our office.

Warmest wishes for a happy holiday season and a prosperous 2015

Thank you for the opportunity to serve you this past year. Your business is appreciated, and your referrals are welcome. Please mention our name to friends and business associates who may need our services.