Monthly IRA Updates

ED SLOTT AND COMPANY, LLC
America's IRA Experts

June 2011 | Click here to view previous issues | Volume 4, Number 6

In This Update:

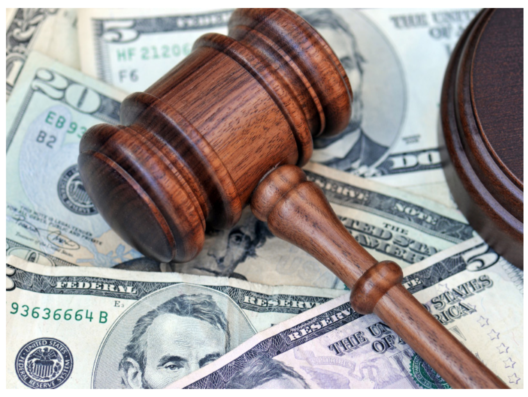
- Q of the Month: Does Social Security Count as Earned Income?
- Key Focus: Roth IRAs vs. Roth Company Plans
- Ruling to Remember: Taking a Short-Term Loan From Your IRA is Risky

?? Question of the Month: Does Social Security Count as Earned Income?

Q: I am 64 years old and am receiving my Social Security check every month. How much, if any, can I still contribute to my Roth IRA? For 2010?

A: Social Security does **not** count as earned income. In order to contribute to a Roth IRA, you must have earned income equal to or exceeding the contribution amount. Compensation would include: wages, salaries, commissions, professional fees, bonuses, and the like. If you are filing a joint return, the phase out limits for contributions to Roth IRAs begin at $169,000 and completely phase out at $179,000. For single filers, it is $107,000 - $122,000. In any case, it is too late to make a contribution for 2010. The last day to do that was April 18, 2011, even if your return is on extension.

Court Ruling: The 401(k) Beneficiary Form Trumped!



The June issue of *Ed Slott's IRA Advisor Newsletter* goes through the court case, Cajun Industries, LLC vs. Robert Kidder, et al., in which the 401(k) beneficiary form was trumped.

The United States District Court for the Middle District of Louisiana ruled that despite having previously named his three children as beneficiaries of his 401(k) plan, a deceased plan participant's 401(k) balance would pass to his new wife.

WHY DID THE COURT RULE THIS WAY? FIND OUT IN JUNE'S ISSUE OF ED SLOTT'S IRA ADVISOR

June Key Focus

Roth IRAs vs. Roth Company Plans

When most people think about Roth accounts, they think about the rules relating to Roth IRAs. There are some key differences, though, between Roth IRAs and the Roth accounts through a 401(k), 403(b), or 457(b) plan.

Difference #1: Access to Your Funds
Regardless of the type of plan account (i.e. regular 401(k), Roth 401(k)) you may have, when money is held within an employer plan, access to the funds is often limited. Sometimes, the limitation is due to the Tax Code and IRS Regulations that apply universally to all plans, but quite often, a plan's own rules can place further limitations on when you can access your own funds.

Roth IRAs, on the other hand, have no such legal restrictions. While a Roth IRA investment may place some restrictions on you (i.e. a penalty for withdrawing your money before a certain date), the Roth IRA rules allow for Roth IRA money to be accessed at any time. This is a big benefit, particularly if you are young. Remember, regardless of how old you are or how long you've had a Roth IRA, Roth IRA contributions may be distributed at any time tax and penalty free.

Difference #2: Required Minimum Distributions (RMDs)
A Roth 401(k) or any other designated Roth account is subject to plan rules. As such, at age 70 1/2 you must begin taking distributions from those accounts, just as you would from traditional 401(k) accounts. If you are over age 70 1/2, still working and own less than 5% of the company you are working for, then you may be able to delay RMDs from the plan of the company you are working for until the year you retire. If you plan to use your Roth 401(k) money to supplement your retirement income, the RMDs may not seem like that big of a deal, but if your goal is to leave the account alone to maximize its value down the road, the RMDs will significantly hinder that effort.

Roth IRAs have no RMDs during the Roth IRA owner's lifetime. You can leave the account alone to continue to grow tax free for as long as you would like. The extra growth can help provide greater tax-free distributions later in life or can be used to provide a tax-free legacy for future generations. Keep in mind, however, that beneficiaries of Roth IRAs are subject to RMDs, but those distributions are generally tax free.

Ruling to Remember

Private Letter Ruling 201118025

A taxpayer we will call "Jerry" received a distribution from his IRA, using it as part of a plan to allow his ailing mother to move residences with the intention of rolling it back into his IRA within the allowable 60-day period. After pulling together funds which included "Jerry's" IRA distribution, the mother would purchase a new residence in cash, enter into reverse-mortgage financing and receive a lump-sum cash payment which she would use to repay "Jerry" and the rest of his siblings.

So, "Jerry" received the distribution, and seven days later, it was applied to the purchase of his mother's new residence. On that same date, the bank began processing the reverse mortgage. "Jerry" asserted that the bank promised him the entire process would be completed within a time frame which would have allowed him to meet the 60-day period for rolling the money back in this IRA. However, numerous delays resulted in this process taking longer than the prescribed time frame. "Jerry" did eventually redeposit the money back into this IRA, but not until after the 60-day period. He blamed the bank and filed a Private Letter Ruling.

The IRS disagreed.

It asserted that "Jerry" made a short-term loan when he withdrew money from his IRA, and while he intended on redepositing the funds into his IRA prior the expiration of the 60-day rollover period, he assumed the risk if the process took longer than expected (which it did). His request was denied.

LESSON TO LEARN:
No matter what the reason is, if you use your IRA distribution as a short-term, interest-free loan and cannot pay it back within the 60-day rollover period, IRS will **NOT** grant an extension of time for you to complete the rollover. You will end up with a taxable distribution.

Resources

- Ed as a Speaker
- Ed Slott's IRA Advisor Newsletter
- Shopping Cart
- Discussion Forum
- IRA Resources
- IRA and Tax Tables

Expert Professional Assistance

- Find an Ed Slott Trained IRA Advisor
- www.IRAHelp.com

Follow Us!

Inside Ed Slott's IRA Advisor Newsletter

401(k) Beneficiary Form is Trumped by Remarriage; Disinheriting Children

- The Plan Beneficiary Form was Trumped
- Facts of the Case
- The Arguments
  - From Section 6.13 of the Cajun Industries, LLC 401(k) Plan
- The Court's Decision
- Preventing Clients from Making Plan Beneficiary Mistakes
  - Roll Plan Funds to IRAs
- Schwab v. Chandler January 20, 2010
  - Facts of the Case
- Spousal Rights under ERISA do NOT Apply to IRAs
- Update Beneficiary Forms
- Proactively Monitor and Plan for Changes in Clients' Lives
- Advisor Action Plan

Guest IRA Expert
Christian Cordoba
CFS, RFC
California Retirement Advisors
El Segundo/Manhattan Beach, CA

Annuities in IRAs Can Pose Taxing Valuation Concerns

If you are not already an Ed Slott IRA Advisor Newsletter subscriber, you can preview past issues before subscribing.