



Guest IRA Expert



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Roth IRA conversions is a tactic that has gained ground, post-SECURE Act. Roth conversions must be mathematically compared to doing nothing. An important driver here is the possibility of income tax rate arbitrage. *Will the account owner be able to convert some traditional IRA dollars to the Roth side at lower tax rates than future beneficiaries will likely pay?*

Other questions to ask include whether the account owner and spouse will likely need IRA money in retirement, making it less important to focus on the consequences of future tax payments by younger beneficiaries. *Will clients have ample non-IRA money to pay the Roth conversion taxes, allowing more untaxed buildup in the account? Should advisors plan for a five-year gap between spouses' deaths or use life expectancy tables? Should a sunset of current law in 2026 be projected under current law?*

Seymour Goldberg, senior partner at Goldberg & Goldberg in Melville, NY, also believes that advisors are likely to put more emphasis on Roth IRA conversions because of the SECURE Act, in order to move money from tax-deferred to potentially tax-free accounts. "What's more," he says, "taxpayers may name a trust as beneficiary of

Relying on Roth

their Roth IRAs, for tax planning, estate planning, and asset protection purposes." Goldberg raises a potential problem and suggests a way to audit-proof trust tax returns with post-death Roth IRA distributions.

"Leaving a Roth IRA to a trust can have many uses, such as providing for a beneficiary with special needs," says Goldberg, author of the American Bar Association book, *Can You Trust Your Trust?* "If handled and used correctly, a standalone Roth IRA trust can provide an extended payout, perhaps for multiple decades."

Nevertheless, according to Goldberg, there is a question as to where on IRS Form 1041, "U.S. Income Tax Return for Estates and Trusts," it should be indicated whether a post-death Roth IRA distribution that has been received by a trust is a qualified or nonqualified distribution. Goldberg requested guidance on this issue from the Treasury Department and IRS on October 14, 2020.

"It is true," Goldberg noted in his request, "that the instructions for Form 1041 contain some information regarding distributions made from an IRA to a fiduciary. The income portion of a total distribution must be reported on Form 1041, line 8, as other income. However, the instructions do not include any details on post-death Roth IRA distributions." This lack of information about post-death Roth IRA distributions to the trust may trigger IRS problems for the trustee if the trust's tax return is subject to scrutiny from the IRS' computer document-matching program, the

Automated Underreporter Program (AUR). For this reason, Goldberg suggested that the instructions for Form 1041 be amended to cover post-death Roth IRA distributions made to a fiduciary.

"One possibility that I mentioned in my request," says Goldberg, "is to include a detailed attachment to line 8 of Form 1041, for reporting qualified and nonqualified post-death Roth IRA distributions to the trust. That's the approach I currently suggest to trustees who receive post-death Roth IRA distributions." Specifically, Goldberg suggests including an indented line to report the gross amount of post-death Roth IRA distributions and a line to report the taxable amount, if any."

This can avoid having the trust's income tax return selected for audit by the IRS' computer program." ■

Seymour Goldberg, CPA, MBA, JD a senior partner in the law firm of Goldberg & Goldberg, P.C., Long Island, NY, is Professor Emeritus of Accounting, Law and Taxation at Long Island University. He has taught many CLE and CPE programs at the state and national level as well as CLE courses for the American Bar Association (ABA), New York State Bar Association, City Bar Center for Continuing Legal Education, NJICLE, local bar associations and law schools. Mr. Goldberg has been quoted in major publications including the New York Times, Forbes and the Wall Street Journal. He was formerly associated with the IRS and has been involved in conducting CE outreach programs with the IRS. He has authored guides for the ABA and the American Institute of CPAs on IRA compliance issues. Mr. Goldberg is the recipient of Outstanding Discussion Leader Awards from both the AICPA and the Foundation for Accounting Education. His IRA guides can be found in well over 100 law school libraries.

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