



ED SLOTT'S IRA ADVISOR

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TAX & ESTATE PLANNING FOR YOUR RETIREMENT SAVINGS

Community Property and Retirement Plans My IRA is *Not* Always Your IRA

What do you get when the community property rules mix with the retirement plan rules? Well, as one widow discovered, the two sets of rules don't always play nicely together. In a surprising recent private letter ruling (PLR 201623001), the IRS said no to a surviving spouse who wanted to roll over her deceased spouse's IRA, even though a state court awarded her a community property interest in the IRA. This PLR is a reminder that understanding the key concepts about how state community property and retirement plan rules interact is essential for advisors to ensure the best outcome for clients facing these complicated issues.

Retirement Plans and Other "Stuff"

A wedding is the beginning of the story for understanding community property. When a couple says "I do," they often receive wedding gifts to celebrate the occasion and so begins an accumulation of "stuff," or to use a more formal term "property." This will continue during their marriage.

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They will contribute to bank accounts, make investments and buy real estate, cars, etc. And in many situations, contributions will be made to retirement plans. When the marriage ends either by death or divorce, it must be determined who gets the property, including the retirement accounts. State property laws provide much of the guidance in this area.

Community Property States

Generally, there are two systems of state property law. Most states use the common law system. This system has been adopted by 41 states. The community property system has been adopted by nine states: Arizona, California, Idaho, Louisiana, New Mexico, Nevada, Texas, Washington and Wisconsin. Alaska has adopted an optional community property system. The U.S. Territory of Puerto Rico is also a community property jurisdiction. Approximately 30% of Americans live in community property states. Are advisors

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