



# ED SLOTT'S IRA ADVISOR

© 2007 Ed Slott, CPA

October 2007

## TAX & ESTATE PLANNING FOR YOUR RETIREMENT SAVINGS

### Splitting Retirement Accounts in a Divorce

#### Cases and Rulings

*"I'm an excellent housekeeper. Every time I get a divorce, I keep the house."  
-Zsa Zsa Gabor (1917 - )*

Splitting an IRA or company retirement plan in a divorce may sound easy, but this area is loaded with tax traps that often cause harsh and unintended results. At some point every financial advisor will have a client who is divorcing and needs to know how to structure the split of his or her retirement savings.

This month's feature article *"Splitting Retirement Accounts in a Divorce - Cases and Rulings"* highlights both recent and classic cases and rulings involving the division, taxation and distribution of retirement accounts as a result of divorce and death. These cases reveal the critical planning issues that every advisor must raise during the divorce process so that the post-divorce and death distribution of these retirement accounts to spouses and former spouses go according to plan. Unfortunately, as you will see from many of these cases, mistakes are common and costly, not only in litigation expenses but in the loss of the retirement funds.

### Splitting an IRA or company retirement plan in a divorce is loaded with tax traps.

This month's guest IRA expert is Guerdon T. Ely, MBA, CFP®, AIFA®, founder of Ely Prudent Portfolios, LLC. His article *"You Can't Stretch What You Don't Have"* illustrates the impact of investment performance on retirement accounts. Guerdon makes a strong case for portfolio diversification when he shows that the impact of losses can be far greater than the impact of gains in an account.

#### October 31st Trust Deadline

If a retirement plan owner died in 2006 and a trust was the beneficiary, the trustee of the trust must provide a copy of the trust or a list of all beneficiaries and their shares to the IRA custodian or plan administrator by October 31, 2007. This is one of the requirements that allows a trust to be a see-through trust where the age of the oldest trust beneficiary can be used for calculating required minimum distributions (RMDs). If the trustee does not meet this requirement, there will be no designated beneficiary and the stretch option over the oldest trust beneficiary's life will be lost. RMDs will be calculated the same as if the estate or a charity were the beneficiary.

For more IRA information, visit our website at [www.ira-help.com](http://www.ira-help.com).

Ed Slott, CPA  
100 Merrick Road, Suite 200E  
Rockville Centre, NY 11570

## WHAT'S INSIDE?

### Feature Article

#### **Splitting Retirement Accounts in a Divorce, Cases and Rulings**

- The Basics
  - Splitting IRAs in Divorce
  - Splitting Employer Plans in Divorce
- Recent Divorce Cases - Death after Divorce Court Rulings
  - Who Gets the Survivor Benefits, Spouse 1 or Spouse 2?
  - Once Again, The First Spouse Inherits
  - Opposite Result - Second Wife Gets the Retirement Money Over the Children of the First Wife
- ERISA Trumps Prenuptial Agreement
- Classic Divorce Cases
  - Incorrect Transfer of IRA Funds in a Divorce Triggers Tax
  - Voluntary Payment of Divorce Obligations from an IRA Triggers Tax
- IRS Divorce Rulings
  - IRS Permits Change to 72(t) Payment Plan After Divorce
  - IRS Rules on Post - Divorce RMD Calculation After IRA is Split
- Planning Pointers

— Pages 2 - 6

### Guest IRA Expert

**Guerdon T. Ely, MBA, CFP®,  
AIFA®  
Ely Prudent Portfolios, LLC  
You Can't Stretch What You Don't  
Have**

— Pages 6 - 8