

2002 Estate Planning Topics: Retirement Planning, MO\$T, Planning for Those With Special Needs

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Our last newsletter analyzed how the 2001 Tax Relief Act might affect your estate planning documents. This newsletter focuses on three separate and distinct planning areas in which you may be interested.

1. Retirement planning

Question: Why is retirement planning important?

Answer: For many of you, your Retirement Accounts (e.g., profit sharing plans, individual retirement accounts (IRAs) and qualified plans) may already represent the largest asset in your estate. If they do not now, they may in the future. As the baby boomer generation ages and our economy continues to fluctuate, it is important to plan for retirement. Also, last year's tax law changes allowed for increasing amounts that can be contributed to Retirement Accounts.

Question: What are the new developments regarding withdrawals from Retirement Accounts?

Answer: In April 2002, the IRS finalized the rules on withdrawals from Retirement Accounts. The new "final" rules clarify some issues that existed previously, and add some additional options to the designation of beneficiaries. The IRS requires that distributions from Retirement Accounts must generally begin in the year after the owner of the account reaches age 70 1/2 (these are known as "required minimum distributions," or the "RMD"). The primary tax goal in Retirement Account planning is to defer the payment of income tax on Retirement Account assets for as long as possible. Because income tax is due, generally, on distributions from a Retirement Account (other than a Roth IRA), the best tax planning calls for receiving only the RMD. Under the new rules, the RMD is calculated using just

one simple table based on the joint life expectancy of you (the account holder) and your beneficiary, who, regardless of age or identity, is *assumed* to be ten years younger than you. The only exception is one that works in your favor. If your spouse is more than ten years younger than you, then his or her actual life expectancy is used so that the RMD can be even lower. The April 2002 IRS rules provide an updated table that allows for a slightly smaller RMD, allowing for more that can stay in Retirement Accounts.

Question: Will the assets in my Retirement Account be subject to taxes when I die?

Answer: The assets remaining in your Retirement Account when you die will be subject to several taxes, including the estate tax, (depending upon the size of your estate and the beneficiary you designated) and income taxes when the assets are distributed to the beneficiary.

Question: Can I designate a trust as the beneficiary of my Retirement Account?

Answer: Yes, and it may make sense for you to do so, but new IRS regulations apply special rules when naming a trust as beneficiary. Most importantly, a trust which qualifies under the new rules can receive distributions from the Retirement Account based on the oldest trust beneficiary's life expectancy, thus allowing for a longer period of time to defer the payment of the income tax.

Question: How can the Greensfelder firm help me with my retirement planning?

Answer: It is important that your beneficiary selection and payment of the required minimum distributions be coordinated with your overall estate plan. We can help you determine the optimum beneficiary designation for your Retirement Account in light of these new IRS rules.



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2. MOST

Question: What is MOST?

Answer: In addition to the traditional methods of saving for college (e.g., irrevocable trusts, savings accounts), the IRS recently approved a new way that may also save you income taxes. The Missouri Saving For Tuition Program (MOST) is an Internal Revenue Code §529 tax-favored, higher education funding program designed to assist financing a child or grandchild's higher education expenses. (You can find the MOST website at <http://www.missourimost.org>.) Almost all of the states have implemented similar programs and each state's program receives the same federal income tax benefits.

Question: Who can be a beneficiary of a MOST account?

Answer: Anyone may be designated as the beneficiary of a MOST account. There are no restrictions based on age, relationship, or state residency. Although each account may only have one account owner and one beneficiary, you may open as many accounts for as many different individual beneficiaries as needed.

Question: What are the contribution limits?

Answer: Currently, there is a lifetime contribution limit of \$100,000 per beneficiary (total amount of contributions made to all accounts for the beneficiary) and an account balance limit of \$235,000.

Question: What if the beneficiary does not attend college?

Answer: If the designated beneficiary does not attend or complete college, the account owner can: (1) designate another member of the beneficiary's family as the new beneficiary, (2) leave the funds in the account for the current beneficiary in case he or she returns to school, or (3) withdraw the funds (subject to taxes and penalties).

Question: What are the tax benefits of a MOST account?

Answer: Contributions to a MOST account (up to \$8,000 per taxpayer per year) are deductible on your Missouri Income Tax Return.

In addition, the earnings of the account, as well as distributions for qualified higher education expenses, are made tax-free, similar to a Roth IRA. But unlike a Roth IRA, anyone can open an account regardless of his or her annual income.

Question: How can the Greensfelder firm help?

Answer: We can help you determine if a MOST account is right for you and, if so, help you incorporate it into your estate plan.

3. Planning for a child or other relative with special needs

Question: What is a Special Needs Trust and why would I create one?

Answer: Assets transferred to a properly prepared Special Needs Trust will not be considered available assets of a disabled beneficiary for purposes of the state Medicaid requirements. (Missouri Medicaid law currently provides that benefits cannot be paid to a claimant with \$1,000 or more.) If a person with special needs receives gifts, a bequest under a Will (or revocable trust without Special Needs Trust language), or receives life insurance policy proceeds, the assets received may disqualify the person from eligibility for government benefits.

Question: How can the Greensfelder firm help me decide if a Special Needs Trust should be in my estate plan?

Answer: If you have a child, grandchild, other relative, or any other individual who currently receives (or may be eligible to receive at sometime in the future) government benefits due to a disability, we can help design a Special Needs Trust that can provide funds for the person's needs without disqualifying him or her from eligibility for governmental benefits. This Special Needs Trust can also serve as a common receptacle for family members and friends to make gifts or bequests for the person's benefit.

If you would like to further explore one of these areas, or any aspect of your estate plan, our estate planning attorneys are ready to help you.

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