IRA Changes Advisors Must Know for 2017

NEW YEAR... NEW RULES... NEW OPPORTUNITY!!

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The Only Thing Constant is Change

- Each year the rules and/or the interpretation of the rules for retirement accounts change dramatically.

- There are always new
  - Laws
  - Revenue rulings
  - Private letter rulings
  - Tax Court cases
  - IRS notices
  - IRS announcements and other guidance

2017 Contribution and Income Limits

- Maximum IRA contribution - $5,500
- IRA catch-up contribution $1,000

- Elective deferral limit for 401(k), 403(b), Thrift Savings Plan and most 457 plans - $18,000
- Catch-up contribution for 401(k), 403(b), Thrift Savings Plan and most 457 plans - $6,000

All unchanged from 2016

2017 Contribution and Income Limits

- What did change?
- Roth IRA contribution income limits rose to:
  - $186,000 - $196,000 married-joint
  - $118,000 - $133,000 single
- Traditional IRA contribution deduction phase-out (spouse of IRA owner an active participant)
  - $186,000 - $196,000
- Saver’s Credit thresholds have also increased

Making Mistakes Just Got More Costly

- New PLR fees beginning February 1, 2016
- Elimination of discounted rollover ruling
- Elimination of discounted late recharacterization rulings
- Introduction of new AGI-linked ruling requests

Revenue Procedure 2016-47

- Released and effective August 24, 2016
- Allows for self-certification of late 60-day rollovers
- Available for missed rollover deadlines for both IRAs, including Roth IRAs, SEP IRAs and SIMPLE IRAs, and company plans

Conditions for Self-Certification

- No prior denial
- Reason for rollover must be one of IRS-approved “excuses”
- Funds must be redeposited in a retirement account as soon as practicable “after the reason or reasons no longer prevent the taxpayer from making the contribution.”
  - 30-day safe harbor

IRS Approved "Excuses"

1) An error was committed by the financial institution receiving the contribution or making the distribution to which the contribution relates

2) The distribution, having been made in the form of a check, was misplaced and never cashed

3) The distribution was deposited into and remained in an account that the taxpayer mistakenly thought was an eligible retirement plan

IRS Approved "Excuses"

4) The taxpayer's principal residence was severely damaged

5) A member of the taxpayer's family died

6) the taxpayer or a member of the taxpayer's family was seriously ill

7) the taxpayer was incarcerated

IRS Approved "Excuses"

8) Restrictions were imposed by a foreign country

9) A postal error occurred

10) The distribution was made on account of a levy under § 6331 and the proceeds of the levy have been returned to the taxpayer

IRS Approved "Excuses"

11) The party making the distribution to which the rollover relates delayed providing information that the receiving plan or IRA required to complete the rollover despite the taxpayer's reasonable efforts to obtain the information.

What About Other Reasons the Deadline is Missed?

- What if the IRA owner died and not a family member?
- What if the retirement funds are stolen by an unscrupulous financial advisor?
- Other “excuses” will require clients to go through the process of filing a PLR to seek relief

How Does the Process Work?

- Client must make a written certification to a plan administrator or an IRA custodian that a contribution satisfies the conditions for a waiver
  - Rev. Proc. 2016-47 includes a model letter

- Client must then redeposit the funds to the IRA as soon as practicable

- A copy of the certification letter should be kept in the client's records.

Possible Future Scrutiny

- Self-certification is NOT a waiver by the IRS
- IRS can disallow the self-certified rollover upon audit
- Reporting from the IRA custodian will tip off the IRS that a late rollover has occurred
  - IRS is planning to modify Form 5498
- No relief from once-per-year rollover mistakes!

DOL Paves Way for State-Run IRAs

- Spurred by a lack of federal response to retirement savings “crisis”

- States adopting state-run IRAs include:
  - California
  - Connecticut
  - Illinois
  - Maryland
  - Oregon

- Safe Harbor from ERISA for State-Run IRAs

DOL Releases First Fiduciary Rule Q and A

- Released Oct. 27, 2016
- 24 pages with 34 questions and answers

- **“Level fee fiduciaries” may not accept commissions or transaction-based revenue**

- **Level fee fiduciaries must document fees carefully**

- **Good news across the board for insurance-only advisors and IMOs**

DOL Releases First Fiduciary Rule Q and A

- “Order-takers” are not Fiduciaries
- Fee-only accounts are not necessarily better for clients
- Get ready for big changes in compensation
- Say goodbye to big recruitment bonuses?
- The Benevolent DOL

	BICE	BICE-Lite
Advisor must act as a fiduciary	✓	✓
Compensation must be reasonable	✓	✓
Avoid making misleading statements about investments, compensation or conflicts of interest	✓	✓
Requires written contract*	✓	
Allows for flexible compensation arrangements	✓	
Explicit requirement to document reason advice is in best interests of investor		✓
Limited disclosures required		✓

*For IRA and non-ERISA plans covered under the Fiduciary Rule

Increased Bankruptcy Exemption for IRAs

- Effective April 1, 2016, the limit increases to **$1,283,025**
- Applies only to IRA/Roth IRA contributions and their earnings
- Does not apply to employer plans or funds rolled over from employer plans

5 Critical IRA Items to Check Before Year-End

1) Have clients maxed-out on retirement contributions?
2) Have beneficiary forms been reviewed?
3) Should you initiate a Roth IRA conversion?
4) Are clients behind on their estimated tax payments?
5) Have all RMDs been taken?

Maxed-Out Retirement Accounts?

- 2016 IRA contributions can generally be made up to April 15, 2017
- Salary deferrals to employer-sponsored retirement plans for 2016 must generally be made in 2016
- Many companies pay their bonuses around year-end. Encourage clients to use some of these new-found funds to save for their retirement.

Have Beneficiary Forms Been Reviewed?

- Have there been any
  - Births
  - Deaths
  - Marriages
  - Divorces
  - Beneficiaries who have reached the age of majority
  - Changes that would suggest the use of a trust as an IRA beneficiary (or suggest eliminating a trust as an IRA beneficiary)

Roth IRA Conversion Before Year-End?

- Can always be recharacterized up to October 15, 2017
- As long as the funds leave a client’s traditional account by December 31, 2016, it will be considered a 2016 Roth IRA conversion... Even if the funds don’t get into the Roth IRA until 2017
- *May* effectively turn the 5-year rule into a 4-year rule

Short on Estimated Tax Payments?

Use This Trick!

- Take a distribution from the client's IRA for an amount equal to the estimated tax shortfall.

- Withhold 100% of the distribution
  - Eliminates estimated tax penalty
  - Withholdings are treated as paid in ratably throughout the year

- Take other, non-IRA money and, within 60-days, rollover an amount equal to the distribution.
  - Restores client's IRA and eliminates the tax on the distribution.

*****Be careful of the once-per-year rollover rule*****

Have All RMDs Been Taken?

- Verify that all RMDs have been correctly calculated
- Ensure that an RMD has been taken from each of a client's employer-sponsored retirement plans
  - Exception – RMDs for 403(b) plans can be aggregated
- Make sure that clients have taken a distribution from at least one of their IRAs large enough to satisfy the RMD requirement for all of their IRAs
- Double-check to make sure RMDs have been correctly distributed from any inherited retirement accounts a client may have

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