

*A common sense approach
to the practice of law*

Conversion to a Roth IRA – when is it Tax-Smart?

You have the opportunity to convert some or all of your IRA to a Roth IRA next year --- regardless of your income. But should you?

The answer, of course, is: "It depends". It depends in part on whether you plan to leave your IRA to your children and in part on whether you think that your own income tax bracket will increase or decrease in the future.

If you think you are likely to not spend all of your IRA money during your life time, and thus are likely to leave it to your children, you might ask your tax advisor about using life insurance. In most situations, children who inherit IRA money must pay income tax on that money. But if you can move your IRA money into a Qualified Plan that allows you to buy life insurance, some or all of the IRA becomes a "Life Insurance Benefit" instead of an "IRA Benefit". Generally, when your children will receive a Life Insurance benefit they owe no in

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The ABC's of FDIC Insurance For Living Trusts

The FDIC - short for the Federal Deposit Insurance Corporation - is an independent agency of the United States government. The FDIC protects depositors against the loss of their insured deposits if an FDIC-insured bank or savings association fails. FDIC insurance is backed by the full faith and credit of the United States government. REMEMBER, no matter how secure looking your bank building appears, the safety of your accounts depends on which of the bank's products you decide to use and whether the bank is FDIC insured. Go to the FDIC website where you can enter the name of your bank and determine if it is FDIC insured.

What Is Insured?

You are probably familiar with the traditional types of bank accounts - checking, savings, trust, certificates of

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REFERRALS

Referrals constitute a majority of our business. If you have a family member, friend or co-worker that needs our assistance, please feel free to give them our number. Rest assured they will receive the same ingenuity, integrity, and common sense approach that you received. **Referrals are the greatest compliment we can receive.** Thank you!

WORKSHOPS

We are hosting complimentary one-hour workshops, "Successor Trustee Training" at the newly - completed McDowall University - a collaborative training facility located at 2070 Pioneer Court, San Mateo, CA 94403.

You are invited to bring your family, friends and neighbors to learn more about what makes a good estate plan and how to prevent problems during a trust administration on incapacity or death.

See the enclosed flyer for more details.

No-Contest Clauses

Beginning in 2010, the California Probate Code substantially changes the enforcement of no-contest clauses with respect to any estate planning instrument (such as wills

and revocable trusts). The law becomes effective on January 1, 2010, and will limit the application of a no contest clause. California Probate Code section 21311(a) provides that a no-contest clause is en-

forceable *only* against three (3) types of "contests," being:

1. A "direct contest" *unless* filed with "probable cause;"
2. The filing of a "pleading"

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Conversion to a Roth IRA

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come tax.

On the other hand, if you are likely to spend the IRA money yourself during your retirement, a major consideration is where you think your personal tax rate will be when you spend your IRA. Let's take a fairly unlikely and simplified example to make the point. We'll assume today you are in the 33% income tax bracket. Imagine today you have \$100,000 in your regular IRA. It is expected to grow at 7% per year. At the end of ten years you will take it out all at once.

If you convert it to a Roth IRA, you will need to pay 33% tax on the \$100,000, or pay a tax of \$33,333. This leaves you \$66,666 in your new Roth IRA. Growing at 7% for ten years, the \$66,666 will be worth \$133,333. When you take money out of your Roth IRA, it is tax free. So, your after tax money to spend is the same \$133,333.

If, however, you do not convert to a Roth, your \$100,000 IRA grows at 7% to be \$200,000 in ten years. But, when you take out the \$200,000, you will need to pay income tax on the entire \$200,000. So, the amount of

after tax money to spend will depend on the income tax rate. If it were 33% -- just as it is assumed to be today -- the traditional IRA would face a tax of \$66,666, (a 33% tax on \$200,000), leaving you with \$133,333 to spend after paying taxes. If the tax rate is the same in the future for you as it is today, you will end up with the same after-tax money to spend regardless of whether you keep your traditional IRA or convert it to a Roth IRA. If the tax goes up -- say to 50% -- then you would have less with a traditional IRA than if you had converted it

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No-Contest Clauses

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in court challenging a transfer of property on the grounds that the transferred property did not belong to the transferor at the time of the transfer, or;

3. The filing of a creditor's claim against the decedent's estate, or prosecution of a legal action based upon a creditor's claim.

The new law also deletes the previous California Probate Code provisions regarding the ability of a beneficiary to file a request with the appropriate probate court for a determina-

tion whether a challenge to an estate planning document will violate a no contest clause or not.

This new law essentially states that a person contesting a will or trust can survive disinheritance if they can show that it was reasonable for them to believe that the will maker or trust maker executed the will or trust in a manner insufficient to support the creation of a valid estate planning document.

In sum, no-contest clauses are no longer legally enforceable in California

except in the circumstances mentioned above. However, many people may still want to include no-contest clauses in their wills in order to ensure that their wishes for their estate are carried out in the event of their death. Creating a risk of disinheritance is still a useful method to deter heirs from attempting to extort a larger share of an estate. You should review your plan to see if it still meets your needs and the instructions contained therein are still up to date and what you want.

Upcoming Workshops

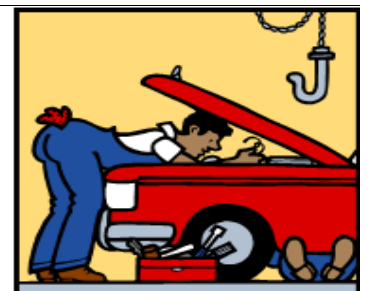
SUCCESSOR TRUSTEE TRAINING

Tuesday, January 12, 2010
10:00am, 1:00pm or 6:00pm
2070 Pioneer Court, San Mateo

See the enclosed flyer for more details.

ESTATE PLANNING TUNE-UP

Coming in Mid 2010, a workshop where you can review your existing Estate Plan and make sure it is up and running for you! Exact dates to be announced.



THE ABC'S OF FDIC INSURANCE FOR LIVING TRUSTS

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deposit (CDs), and IRA retirement accounts - that are insured by the FDIC. Banks also may offer what is called a money market deposit account, which earns interest at a rate set by the bank and usually limits the customer to a certain number of transactions within a stated time period. All of these types of accounts generally are currently insured by the FDIC up to the legal limit and sometimes even more for special kinds of accounts or ownership categories.

Effective October 3, 2008, the basic limit on federal deposit insurance coverage was temporarily increased from \$100,000 to \$250,000

per depositor through December 31, 2009. In mid 2009, President Obama signed a bill that postponed the expiration date of the increased FDIC insurance limits on most bank deposit accounts. Under the new law, the standard FDIC insurance limit of \$250,000 dollars per depositor will continue until December 31, 2013. This new law also applies to accounts at federally insured credit unions under the National Credit Union Share Insurance Fund.

Keep in mind that this new law does not change or extend the coverage applicable to IRAs and other certain retirement accounts. Those accounts will continue to be covered beyond December 31, 2013 for up to

\$250,000 dollars per owner as they have been before any of the limits changed in 2008.

Also, non-interest bearing accounts such as traditional checking accounts, currently have unlimited FDIC insurance coverage based on the legislative changes made in 2008 in response to the financial crisis. This unlimited coverage is still set to expire at the end of this year. The bill discussed above does not change or extend the unlimited coverage for those accounts.

This chart summarizes the current status of FDIC insured accounts:

FDIC Deposit Insurance Coverage Limits (Through December 31, 2013)

Single Accounts (owned by one person)	\$250,000 per owner
Joint Accounts (two or more persons)	\$250,000 per co-owner
Certain Retirement Accounts (includes IRAs)	\$250,000 per owner
Revocable Trust Accounts	\$250,000 per owner per beneficiary up to 5 beneficiaries (more coverage is available with 6 or more beneficiaries subject to specific limitations and requirements)
Corporation, Partnership and Unincorporated Association Accounts	\$250,000 per corporation, partnership or unincorporated association
Irrevocable Trust Accounts	\$250,000 for the non-contingent, ascertainable interest of each beneficiary
Employee Benefit Plan Accounts	\$250,000 for the non-contingent, ascertainable interest of each plan participant
Government Accounts	\$250,000 per official custodian

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to a Roth IRA at your 33% bracket today. But if the tax goes down – say to 25% -- then you would have more with a traditional IRA.

There are many reasons to think that your tax rate will be lower in the future. And there are also many reasons to think that your tax rate will be higher in the future. Talk to your tax advisor about the factors that will most likely impact your personally.

Note: Nothing in this article is meant as a recommendation nor as financial or legal advice.

A Common Sense Approach to the Practice of Law

McDowall Cotter has served clients in the greater San Francisco Bay Area for more than half a century. In that time, we have established a reputation, in the courts and in the community, for ingenuity, integrity, and a common-sense approach to the practice of law.

It has been said that in some ways we are an old-fashioned law firm. We believe in civility, value long-term relationships, cultivate a healthy work environment, and provide the highest quality legal representation in matters large and small. And we agree — we are old-fashioned, but then again we've been old-fashioned for more than fifty years and still somehow we remain ahead of our time.

Our services include:

- Estate and Trust Planning
- Trust Administration
- Probate
- Will Contests
- Trust Contests
- Challenges to Trustees and their actions
- Employer/Employee Relations
- Personal Injury Lawsuits
- Defending Civil Lawsuits
- Partition Actions
- Construction—Mechanic's Liens
- Trademark Applications
- Corporation, LLC Formation



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