

Consider This Program

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On This Show:

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Show Notes:

Topics Include:

- IRAs
- QCDs

We started the program off talking about IRAs and the reason that they're different. We're talking about IRA investment gains. So are they taxed at ordinary income or capital gains tax rates?

Do not feel bad if you have a gain. Most things in your 401k and IRA are taxed similarly, right? Not all, but most are taxed. Similar: long term versus short term capital is no such thing, right? Well, in a 401k you can actually have a thing called net unrealized appreciation. But, money that occurs inside of a tax deferred account, IRA, 401k as well as annuities, even if they're not IRA or 401k driven, in those cases there is no such thing as a capital gain. All money that comes out is taxed at your marginal rate. That means your highest rate is the last tax dollar that you pay taxes on.

Along the same lines are IRA investment gains subject to the 3.8% investment income. The gains on the IRA are not the way the income goes onto your return, depending on what income tax bracket you are at. A lot of things get factored into that part, but when you pull money out of



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a tax deferred item, just to keep life simple, it is all income, not subject to social security tax. It's all income and it's all at your last dollar that you earned. It's all taxed at your marginal rate.

Can IRAs be gifted or transferred during a lifetime? Yes. I'm sure he has more degrees, designations and thoughts than I ever had. I sleep well at night by doing the right thing. Some people sleep well at night somehow by doing the wrong thing. The answer is no. I cannot do it at life unless it's during a divorce and the court orders it to be so. A court can circumvent with a form. So it's really important. Understand IRAs are not under the department of labor. They are not qualified plans. They do not use qualified domestic relations orders or Quadros. Even when attorneys say they do. They use a different form. It's a rollover order that comes from a judge, that a custodian has to accept. It's not a qualified or Quadro form.

The other part was: can they be gifted? You cannot in any way, shape or form. What about if it goes directly to a charity? It can go directly to a charity only if I'm over 70 and a half years old and I'm using a qualified charitable distribution. If I'm under 70 and a half, I'm not eligible for required minimum distributions. I cannot give it directly to a charity without first paying the taxation and the penalty on it.

Can an IRA be transferred to a trust during a lifetime or death? It never should be transferred to a trust. We have a case right now where one of our families, and please don't do this if you're going to work with the financial enhancement group.

Understand there are five critical elements that can mess up your retirement. One is your life after work. Some people call it retirement planning. What I have found is most people really don't want to retire. They want the option of not working. That's different. So we call it your life after work. The second is the annual tax plan that makes sure that what you're doing today is getting you the most amount of efficiency on that tax return this year. The third is the investment playbook. How do you deal with the crazy world of trade Wars and Brexits and, and federal reserves? The fourth is life happens. It's the things that happen that are good and bad and ugly in life. And then the fifth is a legacy plan. How do I make sure that what happens to me later in life is what I want to have happen? And when I'm gone, that my heirs get the money that I want left behind the way that I want it left behind. So we deal with estate planning attorneys that we have vetted and dealt with for decades in some cases. We know their structure. We know their process and we can say, "Hey, here's what we've done in the past and here's how it works."

Well, one of our family's forgot that, went and got an attorney that was referred to her by her boss, as close to the C suite of a major corporation as you can get and I mean a major, major, major corporation. So they're paying a lot of money. The attorney said, all of your retirement accounts should go to your will, which are then going to be passed to a testamentary trust. But wrong in both cases in my non-legal, not an attorney, not playing one on radio or TV, nor even



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at home. But you know, I am going to tell her, "Hey, this is what it means and if the attorney really wants me to make your 401k (she's not married), I'm the beneficiary to be your testamentary trust. He's going to have to put that in writing because your kids are going to probably sue him, not me. I don't want to be in the middle of that." We use trust for IRAs. They're very specialized trusts and all it does is accept the required minimum distribution. Then that is distributed to your beneficiaries. I'm a big fan of them. I use them all of the time. But they are separate standalone items just for your tax deferred accounts.

Can IRA's change ownership during a lifetime? That would be the same thing as making a gift. Whoever owns it, owns it. So IRA does stand for individual retirement arrangement. Notice it doesn't say joint couple retirement arrangement. That'd be different initials. My Roth IRA is mine. My wife's is hers and she can't give me hers and I can't give her mine, unless we die and then as a spouse we can do that. Or you know, something happened and we get a divorce, the judge can order that too to occur. Other than that, the answer is no.

Can IRA equity be tapped into the same way? Home equity can be tapped into? Absolutely not. Publication 590, which is the guidelines for all IRAs, strictly says that if you pull money out as a loan, bad things can happen. You can borrow money from a 401k plan if the plan document allows. Can you ever do that on an IRA that said once every 365 days? Though I strongly discouraged this course of action, once every 365 days (not a calendar year), you can pull money out of an IRA and if you replace it within 60 days, you're okay. But more often than not, we see a problem and if you use the money, the IRS does not have a sense of humor. If you do not get it back in until the 61st day, count on full taxation. And if you're under 59 and a half, a full 10% penalty.

Disclaimer: Joseph Clark is a Certified Financial Planner™ and the Managing Partner of Financial Enhancement Group, LLC an SEC Registered Investment Advisor. He is the host of "Consider This" found on WIBC Saturday mornings from 6-7a.m. as well as three other Indiana-based radio stations. Joe has served as an Adjunct Assistant Professor at Purdue University where he taught the capstone course for a degree in Financial Counseling and Planning.

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