Estate planning for retirement plan assets

Throughout all of our lives, we have been told that if we don't want to work all of our life, we must plan ahead and save for retirement. We have also been urged to seek professional guidance to help plan our estates so that we can ensure that our loved ones will get the most out of the assets we have accumulated during our lifetime, with the least amount possible going to pay estate taxes. What many of us likely have not thought about is how these two financial goals -- retirement and estate planning -- work together.

Retirement plan assets are part of taxable estate

When we begin to think about estate planning, one of the first things that we usually do is to take an inventory of what our current assets are and then we project into the future and try to estimate the assets we will have when we die. If you take a moment and think about this right now, aside from your residence, the most valuable asset you currently own (and that you will own at the time of death) is most likely to be your retirement savings (your IRAs, 401(k) accounts, and other employer-sponsored retirement plans). Looking at things from this perspective really drives home the importance of estate planning in connection with saving for retirement.

One of the reasons why we may not think about estate planning in connection with our retirement benefits is that we may have the false notion that these benefits are not part of our "estate" and therefore are not subject to estate tax. This is not true. All of your assets, regardless of the source are part of your estate and subject to estate tax (or, in other words, part of your taxable estate). This means that all of the issues that you may address with a lawyer or accountant or other financial professional regarding planning your estate will also need to be considered when planning for your retirement. When you sit down with a professional to help you plan your estate it is critical that you gather and provide as much information as possible regarding any and all retirement plans in which you participate—all IRAs, 401(k), and other plans sponsored by your employer.

Special issues involved with estate planning for retirement plan assets

Even though the funds that you have in your retirement plans are subject to the same estate planning rules and considerations as any other assets that are part of your estate, there are certain special or unique issues that come into play when you incorporate retirements savings into estate plans. Decisions made with respect to these issues may also have **income tax** consequences as well as estate tax repercussions. Some of the most important of these issues are:

- Whether to elect for survivor benefits to be paid to a spouse (sometimes referred to as a joint and survivor annuity);
- Whether you should choose or designate a beneficiary with respect to your interest in an IRA or another retirement plan;
- The tax differences to beneficiaries who receive benefits on your death but before you have begun to receive pay-out of your benefits and those beneficiaries who begin receiving benefits after retirement payments to you have commenced; and
- Benefits that may be subject to both income tax and estate tax (and are sometimes provided an income tax deduction due to the double taxation)

It is also important to understand that for the next 10 years, federal estate taxes will be in a state of flux. From now until 2010, the amount of your estate that is shielded from tax will increase annually and the rate at which your estate is taxed will decrease annually. In 2011, there will be no estate tax. Unless Congress acts, the old exemptions and rates reappear in 2011. You must plan carefully to ensure that you get the best possible results regardless of the estate tax rules that are in effect. As you consider becoming more involved in estate and/or retirement planning, please contact the office for additional guidance.