CSI FINANCIAL GROUP

eStatePlan™

EPTM's SuperCharged IRA™

An online estate planning service platform providing powerful, unique, auto-processing appli-cations at the fingertip control of the client/user through secure 24/7 login access has finally arrived. Welcome to eStatePlan™ (EPTM), the last estate plan you will ever need.

The EPTM dynamics enable end-user clients, in the privacy of their own home or at their advisor's office, and with the assistance of EPTM Client Management Services (CMS) staff, to create a paperless, living trust estate plan that can be electronically (i) implemented, (ii) funded, (iii) stored, (iv) modified, (v) shared, and eventually (vi) settled all within a cloud-based environment.

Comparing IRA Administrative Services

There are two primary holding accounts for IRAs: "custodial accounts" and "trust accounts". (IRAs can also be held in annuity contracts as a third option.) The majority of IRAs are held in custodial accounts since they are easy to establish and inexpensive to maintain, and it's the only IRA administrative format most financial institutions offer. A custodial IRA administrator does little more than house the IRA and perform the minimally required federal reporting duties on behalf of the account owner.

The main drawback with custodial IRAs is that they are by design unable to function as trusteed-IRA accounts, and thus provide no meaningful planning opportunities for the account owner (other than to name a remainder man beneficiary on the account.) The only way custodial IRAs can be managed by a trustee, with the benefits of trustee managerial services, is by having the IRA payable to the owner's trust upon his decease. And many IRA owners don't even make those arrangements.

A Need for Planning Opportunities

The consequences over a lack of planning for inherited IRAs are obvious. Such accounts can become fully vested in a one-time, lump sum taxable disposition to a financially unsophisticated beneficiary. That presents at least the imminent prospect of a short, taxable spend-down to depletion or even a destructive, self-inflicted path because of the access to immediate and uncontrolled wealth. There are other concerns to consider as well, including the fact that IRA funds distributed outright and free of trust can be exposed to the beneficiary's spendthrift

(or divorcing) spouse and/or potential creditor. And these are only a few of the many factors that create the need for thoughtful and deliberate planning with inherited IRAs.

So why would any responsible parent or grandparent wanting to benefit their loved ones with their assets, including their IRAs, not take the time to establish thoughtful planning safeguards instead of just defaulting to a custodial IRA arrangement? Why would an IRA owner jeopardize their earned retirement plan to a careless spend-down scenario by a financially unsophisticated, at risk, or irresponsible heir when there are controlling tools available to address and completely avoid the problem? The answer seems to be primarily two-fold: a lack of planning information and the general absence of facilitating services.

Assessing the Marketplace

When measuring the potential of this opportunity, consider the numbers published by Investment Company Institute (ICI) concerning IRA-related facts. It is known that there are about 75 million baby boomers either in or near retirement, many of whom want to create reasonable and reliable income streams for their retirement years and plan for the proper management/disposition of those asset accounts should they not use up the account funds during their lifetimes. According to ICI, there are currently $7.6 trillion in traditional & Roth IRA accounts and $6.8 trillion in defined-contribution plans (401[k], 403[b] etc.) *totaling over $14 trillion of cash/equivalents in retirement accounts*.

Ancillary Applications

Defined-contribution plans can be rolled over to IRA accounts. In fact, 401(k) accounts can also be rolled over to an "Inherited IRA" by a vested 401(k) beneficiary or even by the trustee of a living trust that was named as the see-through beneficiary of the defined-contribution plan. The ability for a trustee rollover of a defined-contribution plan to an IRA can be important, since tax-saving, see-through stretch rules (stretching the Required Minimum Distribution events over the lifetime of an account beneficiary) can generally only apply with inherited IRA accounts. Moreover, that administrative function always requires the services of a trustee, most preferably a corporate trustee.

How & Why Can It Work?

A corporate trustee must always operate within and under the authority of a governing trust instru-ment – in receiving, holding, investing (as a directed or delegated trustee) and distributing assets – whether the trust is an "in-house" template or a declaration of trust created by the trust company's client. Unless superseded by state law, the terms of the trust must always apply and are in full force as a legal contract as long as there are vested beneficiaries living (or state law terminates the trust).

So called "trusteed IRAs" are established and operated under the same body of law as would govern a classic RLT agreement; there is no difference. In fact, *trusteed IRAs operating agreements are revocable living trusts* since they exist under the full, general-power-of-appointment control of the IRA owner, which is the same unrestricted control as the IRA owner has over his own RLT.

Without exception, a trust – *any* domestic trust arrangement – must involve three distinct parties, which are (i) a grantor, (ii) a trustee, and (iii) a beneficiary. The problem with grantors funding their IRAs to their personalized RLTs exists in the fact that the vast majority of grantor RLTs are also "grantor-trusteed". In other words, RLT grantors almost always name themselves as the trustee(s) of their own trusts. *But that arrangement essentially precludes grantors from transferring their IRAs to their RLTs* because of two main factors.

The first issue is that grantor-trustees are generally not a "recognized" trustee (by federal regulations) of an IRA account. Any trustee who avails itself to the duties of an IRA trustee (or custodian) must follow the rules defined in 26 CFR 1.408-2. If the trustee's obligations are not performed according to those federal regulations with respect to IRA accounts held by the trustee then the loss of the tax-fa-vored status of the IRA account can be expected, which would cause a "deemed" taxable disposition of the entire account to have occurred (by default) just as if the IRA owner had elected to take a lump sum distribution.

Classic RLT arrangements provide unhindered access to ALL trust-assigned / trust-held assets. If a grantor-trusteed RLT is holding an IRA then the prospect of "self-dealing" – by either a willful act or a mistake by the grantor – is a likely event. In addition, the grantor-trustee is not required to operate under the fiduciary rules that corporate trustee must follow. That's why the IRS would take

the "understood" position that self-dealing would occur with IRA accounts in a grantor-trusteed RLT arrangement. And that would explain why the "perceived" no-IRAs-in-RLTs prohibition exists.

Is there a way then for the RLT grantor to have his cake and eat it too when it comes to blending an IRA account into the asset base of his own RLT even though it is a grantor-trusteed design? The answer is YES. There is no rule or statutory prohibition that exists to deny the validity of that arrangement, but it absolutely requires the participation of regulated corporate trustee's services to make it work.

The Answer Lies in the RLT's Structure

Established trust law allows a grantor to appoint a "Special Trustee" – or "agents" of the trustee – to hold certain assets for the purpose of carrying out special duties and functions. Special trustee/agent arrangements can come in many forms such as an administrative trustee/agent", a "nominee trustee/agent", a valuation trustee/agent, etc. The special trustee/agent is an independent third-party admin-istrator, which of course fits the description and purpose of a corporate trustee. These applications provide much flexibility for administrative purposes. Now, with the EPTM platform dynamics, a sig-nificant opportunity is available with "trusteed IRA" planning.

Introducing EPTM's SuperCharged IRA™

The EPTM platform's document sets already feature the structural design to allow for the adminis-tration of trusteed IRAs. The design requires the participation of a corporate trustee who is also set up to perform "trusteed IRA" administrative duties. The corporate trustee will be able to seamlessly administer IRAs assigned to a grantor's RLT when the RLT has been established through the EPTM platform. That creates what we refer to as EPTM's **SuperCharged IRA™**.

When a corporate trustee has been identified by name in the EPTM Portfolio document, that entity is appointed – through the default language of the DTP document – as the independent "**IRA Administrative Trustee**". The corporate trustee, as the IRA Administrative Trustee, will take title to any IRA accounts assigned to the trust (during the grantor's lifetime). Of course, the IRA Administrative Trustee is not allowed to co-mingle the IRA account with any of the grantor's other assets that may have been "retitled" to the trust whether in the name of the grantor-trustee or the corporate trustee.

The Supporting Dynamics of the EPTM Platform

With the EPTM platform, the grantor's use of an "electronically implemented" Asset Assignment Led-ger enables the EPTM client/grantor to "assign" his assets to the trust without having to retitle the assets to the trust – during the grantor's lifetime. The retitling process is done by the successor trustee after the client's decease. That avoids the duplicating of the retitlement process. The structure also helps to easily facilitate this new application of transferring the grantor's IRA to the corporate trustee – the IRA Administrative Trustee.

Now, the EPTM client/grantor has FULL access and UNHINDERED ability to make changes relative to his IRA account (while he is alive, of course) *even though the IRA is effectively under custody of the IRA Administrative Trustee and the grantor himself is still the trustee of his own trust*. The operating designs of the EPTM platform enable the client to easily make changes as to how his IRA account will be administered after his decease concerning utilizing the payout terms relative to the stretch IRA rules. The grantor can also change the beneficiary designations of the IRA – at any time and under his full discretion – regarding the selection of beneficiaries who are to receive portions of the IRA and the value of their vested portions of the SuperCharged IRA™.