Ivan & Daugustinis
ESTATE AND TAX ATTORNEYS

Michael J. Ivan, Jr. +^
Robert Daugustinis
Clayton T. Miller
Andrew M. Woods ^
Michael P. Tyson *^

Board Certified in Taxation +
LL.M. in Taxation ^
Of Counsel *

RETIREMENT BENEFIT PLANNING

Protect Your Nestegg

Total retirement assets in the United States exceeded thirty-five trillion dollars ($35,000,000,000,000) in 2021. Mention the phrase "estate planning" and most people will focus solely on estate planning documents drawn up by their attorney. While a last will or trust remains an important piece of your overall estate plan, the whole picture is not complete until a plan is put in place for your retirement accounts. Just as you would take measures to protect your other investments by planning ahead, it is equally important to protect retirements accounts against taxes, creditors, and probate.

Beneficiary Designations Can Be Used to Mitigate Income and Estate Taxes

- ☐ Use of disclaimer-type designs can hedge against volatile estate tax laws while preserving maximum flexibility to a surviving spouse.
    - o You can provide for a contingent beneficiary to give your spouse the option to disclaim the retirement account into a credit-shelter trust and therefore utilize any unused portion of your estate tax credit while still providing for your spouse.
- ☐ Charitable planning can be incorporated into retirement accounts, maximizing wealth transfer to heirs by minimizing (or eliminating) the income or estate tax impact.
- ☐ Coordination with state income tax and estate tax for beneficiaries.
- ☐ Defer income tax by incorporating "see through trust" provisions for trust beneficiaries.

Beneficiary Designations Can Utilize Trusts to Provide Additional Asset Protection

- ☐ A properly drafted trust can provide access to the retirement account for your current spouse while preserving the inheritance for your children from a previous marriage.
    - o A spouse receiving the funds outright can change the ultimate beneficiaries by designating someone other than your children upon rolling over the account.
- ☐ A trust can protect young beneficiaries or spendthrift beneficiaries from themselves.
- ☐ A trust can also protect beneficiaries with asset protection concerns (divorce, high-risk professionals, business owners) without requiring loss of beneficiary control, as well as special-needs beneficiaries.

Beneficiary Designations Should Never Name Your "Estate" as a Beneficiary

- ☐ Naming your "estate" as the beneficiary requires those assets to be included in your probate estate.
- ☐ Inclusion of retirement accounts in probate presents several issues.
    - o Additional attorney's fees and costs of administration.
    - o Creditor claims can attach to the assets during the probate process, subjecting otherwise asset protected funds to creditor claims.
    - o The beneficiaries of your estate will have to wait for the estate to be administered before they can have access to the funds.