

By: Edward W. Cotney

Who Will Actually Inherit Your IRA? The Rules Have Changed.

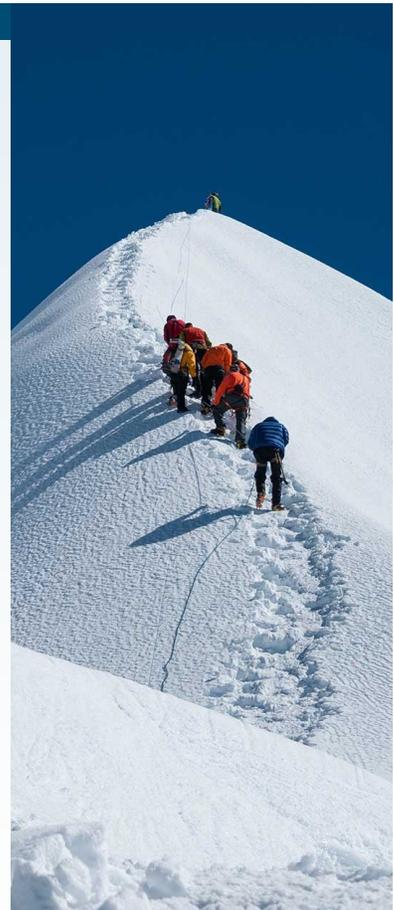
What is the Hoopla About?

I am pleased with the bulk of the SECURE Act of 2020. However, there are serious issues which will impact your non-spousal beneficiaries (children) when they inherit your qualified plan. Under the prior rules, after you and your spouse pass away, your heirs could simply withdraw the Inherited IRA funds and pay the tax. Or, they could elect a 5 year payment plan or better yet, elect a process called the “Stretch Option” which would provide an income stream using a smaller Required Minimum Distribution (RMD) table - which if the heirs allowed the funds to be managed over time, could create significant long term taxable income. The new rules are very simple. Upon your death the non-spousal heirs shall liquidate the account within 10 years and pay the income tax on said distribution(s). Basically, there are no rules to withdraw a certain amount at any point, simply, the account shall be closed and distributed within 10 years.

Taxes, Lawsuits and Oops I did Not Know!

Key to understanding this unique “always taxable” asset is accepting the fact monies distributed from a Qualified Plan are added to the 1040 of whomever receives it! Anything you can do NOW to reduce large taxable distributions to a taxpayer will help transfer greater wealth.

While you are alive adding to or withdrawing funds from your Qualified Plan, state law provides a degree of asset protection of approximately \$1.2M from your judgement creditors. **Now for the nightmare.**



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Special points of interest

- Why Have None of My Advisors Shared This Problem With Me?
- Will ERISA Rules Change for Inherited Plans?
- Should I Consider a Conversion Strategy Now?
- How can I pay less Income Tax?
- Is there a way to avoid Capital Gains Tax?
- **Is it true Qualified Plans may be subject to Estate and Income Tax rates up to 81%?**

The Risk You are Creating for Your Heirs!

In a landmark 2014 US Supreme Court Decision by unanimous vote in *Clark v Rameker*, the question whether an Inherited IRA could be subject to an heirs Bankruptcy Judgement was affirmed.

Which means, the assumption your qualified plan enjoys the same asset protection as the person who created and funded the plan has been answered as ...

“No - It Does Not”.



*Imagine leaving your \$1,000,000 IRA to your son or daughter. Then during the 10 year Stretch, they lose part or all of the Inherited IRA to a Judgement. **Who pays the tax?***

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Understanding the 10 Year Period of **Stretch Risk**

If your heirs are business owners, serve in positions with litigation exposure such as physicians, attorneys, contractors, or tend to marry and divorce often, in other words, routinely end up at the courthouse as a defendant, or are creative spenders, leaving a Qualified Plan to them without some form of asset protection warrants serious consideration.

One simple process to control the tax exposure on funds trapped in the 10 year stretch period is to simply take all of it out upon inheritance of the plan and pay the tax. Yes, it is painful and in states like CA where the combined State and Federal tax hovers around 50%, watching \$500,000.00 fly away hurts. But compared to the risk of leaving the funds as an Inherited IRA, then losing it to a judgement and then paying \$500,000.00 from their personal assets is worse in my humble opinion. I am certain many professional advisors will opine the risk of losing the Inherited IRA is low for many beneficiaries, and leaving the money under their management is the smart play.

If yes, then let the money manager guarantee the Inherited IRA will be safe by pledging their own assets to satisfy any future tax event because of a judgement against your heir! Good luck with that.

You are the only person who MUST take action NOW to protect the loss of these plans from your children's potential judgements!

The Give It Away Twice Plan

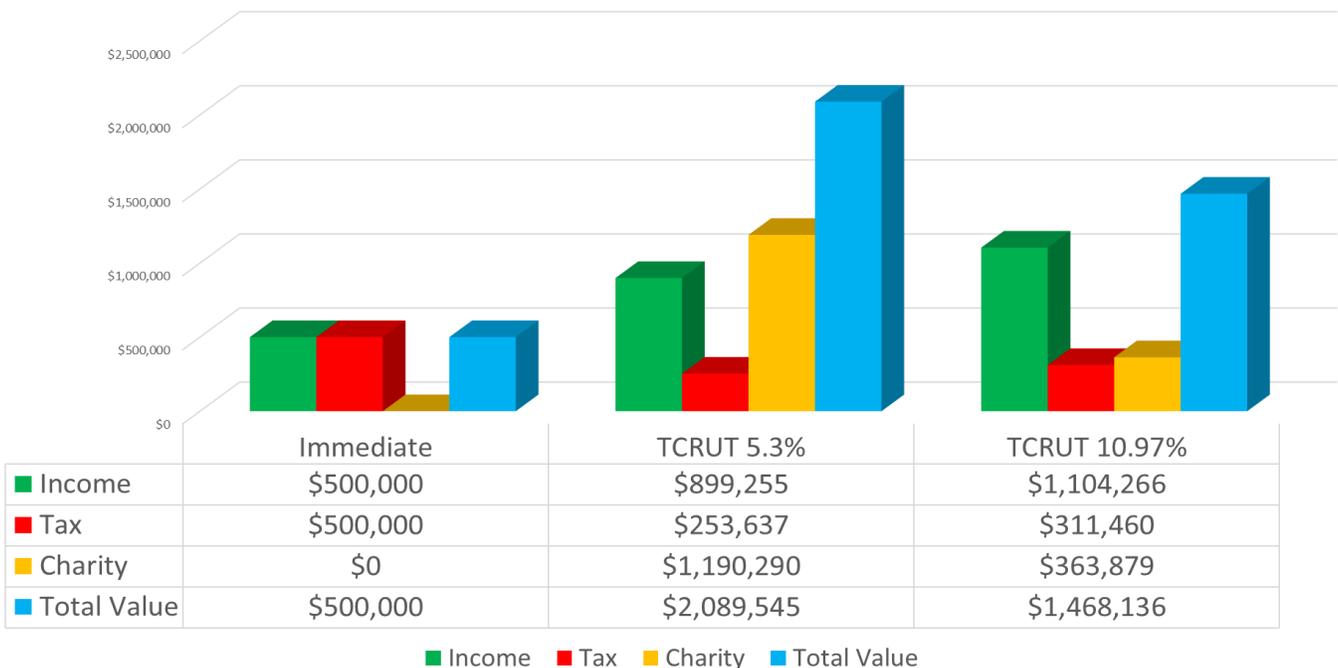
Another great strategy from my book *Tax Secrets Made Simple*, Chapter 17.

Without question, the transfer of tax smart and asset protected wealth to our heirs has become complex, confusing and often overwhelming. In the chart below, I compare the benefits of liquidating the Inherited IRA immediately, paying approximately \$500,000.00 in tax and keeping the remainder of \$500,000.00 as a distribution. Keep in mind, the distributed \$500,000.00 after tax is exposed to your heirs judgements, but at least the taxes have been paid from the qualified plan verses their personal funds.

One strategy many of my very happy clients have been using since 2009 is the Testamentary Charitable Remainder UniTrust (TCRUT). Simply, attorneys I have trained will help us carefully design an unfunded charitable trust based on your planning objectives. **The TCRUT examples below demonstrate two of the many variations available I can design specifically for you.** By coordinating the technical and legal process, your plan will provide a prudent balance of tax, asset protection and philanthropic giving to benefit your heirs and your favorite charitable causes. My role will help you customize the benefits of this plan while complying with all state and federal mandates, then executing and coordinating your plan accordingly.

Chances are, you have wanted to make a significant gift to one or more worthy charitable causes, but did not have the financial resources at that time. Every night, you will sleep like a baby knowing your Qualified Plans will provide an income stream to your heirs for up to 20 years with less tax after you are gone; and with a degree of asset protection under the current law. Once your trust has completed the payments to your heirs, a major gift will be distributed to your favorite charities tax free. Hence, the Give It Away Twice Plan!

Comparison \$1M IRA Distribution to Non-Spouse
Distribute 100% vs 20 Year TCRUT 5.3% / 10.97%



Technical Illustration Available Upon Request

TCRUT 5.3% Normal Payout Rate

TCRUT 10.97% Maximum Allowed

Assumes 6.3% ROI

*I help families and
business owners pay
less tax and enjoy
more life, Guaranteed!*



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Edward W. Cotney

If you feel there is a better way to pay less tax, enjoy more life and become a catalyst for the greater good rather than being a compulsory taxpayer, look no further! My purpose is to “unlearn” you from all of the bad wealth habits you have been taught for years.

In 2018, I published “*Tax Secrets Made Simple*”, a book to help families of all income levels pay less tax. I will teach you how to reduce your Income Tax for life, eliminate Capital Gains Taxes, and apply the 80,000 pages of beautiful tax code you could have used!

If you would like to pay less tax, we should talk.

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