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To Clients and Professional Advisors:

The Treasury Department has issued sweeping new regulations which overhaul and simplify the system of determining the required annual minimum distributions from IRAs, 401(k)s and other tax favored retirement plans. Listed below are the key points of the new regulations:

1. A uniform distribution table will be utilized to determine the annual required minimum distribution based on the participant's age. For example, the age 70 division has been increased to 27.4. The issues concerning the selection of a method of calculation and the beneficiary when the participant reaches age 70 ½ have been eliminated. The new table lists the smallest minimum distribution amount provided under the old system (MDIB Tables) which will allow for greater tax deferred growth. The only exception to the use of the uniform table is for a participant whose spouse is more than ten (10) years younger and is named as the sole beneficiary;
2. The identity of the ultimate beneficiary of an IRA is not required to be finalized until December 31st the year following the death of the participant. Beneficiaries can now be changed as many times as desired prior to the death of the participant. In addition, beneficiaries can subsequently disclaim an interest in an IRA to allow the benefit to pass to contingent and possibly younger beneficiaries;
3. An inherited IRA may be divided into separate accounts for multiple beneficiaries to utilize their different life expectancies;
4. Minimum distributions of inherited IRAs are based on the life expectancy of the beneficiary calculated in the year following the participant's death utilizing the term method;
5. If a charity is a co-beneficiary, it can cash out its benefit allowing the individual beneficiaries to use their own life expectancies;
6. If there is no designated beneficiary, the distribution period after death is determined by the participant's remaining life expectancy prior to death;
7. Although the effective date of the regulations is January 1, 2002 taxpayers may rely upon the new proposed regulations for determination of the required minimum distributions for 2002. Participants older than 70 ½ may now disregard their current elections and use the new uniform table; and
8. A plan sponsor of a qualified plan may rely upon the proposed regulations if it adopts an IRS model amendment.

Every participant should review his or her beneficiary designation forms for all retirement plans including multiple IRAs.

The trade off for these favorable revisions is a new reporting system which will enable the Internal Revenue Service to enforce the rules with regard to required annual minimum distributions. Custodians that sponsor IRA accounts will be required to report the projected annual distribution amounts to the Internal Revenue Service and the participant. The fifty (50%) percent penalty for the failure to withdraw the required annual minimum distribution remains in place.

Our office is ready to assist you or your clients in exploring retirement planning issues and sophisticated estate planning opportunities including family limited partnerships, personal residence trusts and charitable scenarios which will assist in the preservation of wealth for future generations, as well as our other areas of specialization, including tax dispute resolution, business representation, employment and executive compensation issues and real estate.