

**ESTATE PLANNING COUNCIL
OF GRAND TRAVERSE AREA
May 2, 2019**

Agenda

- 11:30-11:45 Registration and mingling
11:45 Welcome – Tim Clulo, Bowerman, Bowden, Ford, Clulo, & Luyt, P.C.
11:50-12:45 Leon LaBrecque, Presentation
12:45 Closing – Tim Clulo



About the Speaker

Leon LaBrecque, who has been featured in media outlets like InvestmentNews, CNBC, USA Today and Forbes, is a practicing attorney, CPA, CFP® and CFA, an educator at heart, and has a passion for helping others fully understand their financial lives. He has authored several books and currently holds the title of Chief Growth Officer at Sequoia Financial Group.

About the Estate Planning Council of the Grand Traverse Area

Welcome to our network! Our membership works to advance the expertise, professionalism and cooperative collaboration among attorneys, CPAs, bank trust personnel, financial planners, and others whose work is focused in estate planning. We exist to provide these professionals with a platform to connect with each other and provide extended learning opportunities.

Next Chance to Learn – Save the Date

Tuesday, September 24, 2019 – *Working with Individuals with Diminished Capacity*
4:30pm - 6:00pm
Traverse City Golf & Country Club

Happy Hour Presentation with Steve Starnes, MBA CFP – Principal Grand Wealth Management. Heavy appetizers and beverages will be provided.

Watch communications and the website for registration details.

Not a Member Yet?

Check out our website for more information and to join – www.gtaepc.org.

Thank you for spending time at this event today. An evaluation will be emailed to you today – we appreciate your feedback.



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IRA Planning Pitfalls

Leon LaBrecque, JD, CPA, CFP®, CFA



Issues with IRAs



- | IRA Trusts: Conduit and Toggles
- | Misallocating IRA and Taxable Assets to Beneficiaries
- | Roth Conversion and Estate Tax
- | Roth Conversions and bracket topping
- | Roth Conversions and §199A
- | Beneficiary Error: Naming the Estate
- | Beneficiary Error: Deceased Beneficiary
- | Beneficiary Error: Not Enough Layers

Issues with IRAs



- | Missing the 60 Day Rule
- | Beneficiary Error: Mixing Kids and Charities in the Same IRA
- | Beneficiary Error: Non-see-through Trust Provisions
- | Opportunity: IRA to HSA rollover
- | Opportunity: Kid Roth
- | Opportunity: Mom Roth
- | Opportunity: Dynasty Roth
- | Opportunity: Qualified Charitable Distribution

IRA Trusts: Protect the Kids From the Money and the Money From the Kids



- | Clark v. Rameker: Assets of inherited IRA are subject to the claims of the beneficiary's creditors
- | Spendthrift clause in IRA beneficiary trust
- | Conduit: Pass-through RMD to beneficiaries
- | Toggle: trustee can hold RMD or pay more
- | Tax advantages and creditor protection



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Misallocating IRA and Taxable Assets to Beneficiaries

Issue: Multiple beneficiaries with completely different tax situations

Example:

- \$3M: \$1M trust, \$1M Roth, \$1M Trad IRA
- 1 kid low bracket, 1 kid high bracket, charity
- Split three ways, high bracket kid gets hit with income from IRA, charity wastes Roth
- Optimize: Trad IRA to charity, Roth and trust to kids

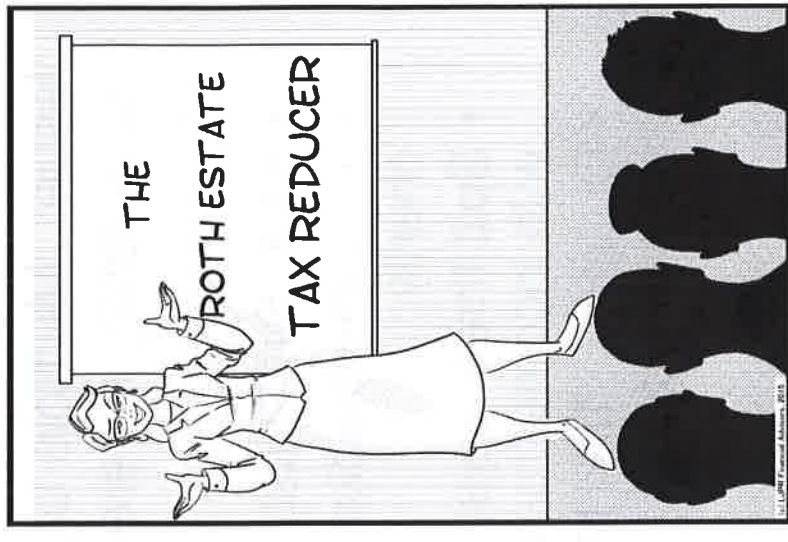


Roth Conversion and Estate Tax



| On taxable estate, Roth conversion can reduce estate taxes

- Estate is reduced by the income taxes paid on the conversion
- Roth conversion eliminates need for RMD
- Also eliminated IRD on conventional IRA
- Can equalize after-tax distribution to bracket-disparate beneficiaries



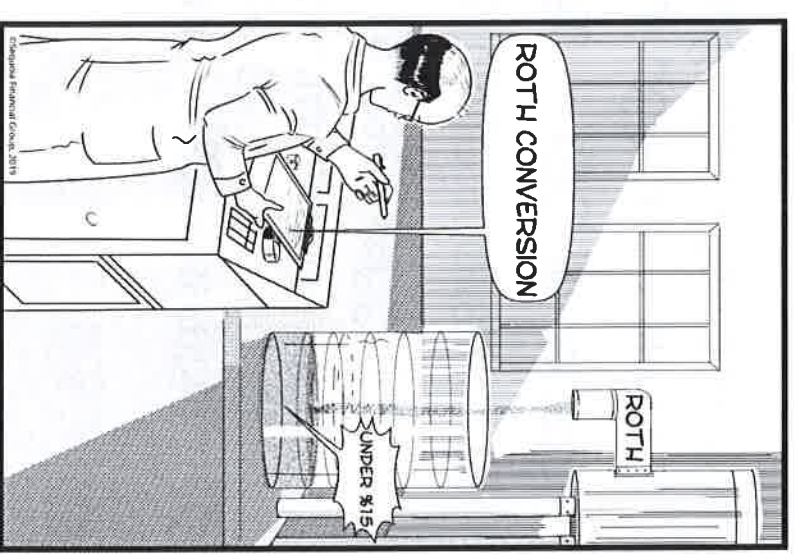
Roth Conversions and Bracket Topping



| Convert enough IRA to Roth to reach the edge of the bracket

Example:

- Couple, over 59 ½ and under 70 ½, have \$1M IRA, two pension and two Social security payments
- AGI without IRA distributions is \$70K
- 12% bracket
- About \$31,400 of room in the 12% bracket
- \$3,768 fed tax, possible MI tax
- No RMD on Roth, tax free to bennies



Roth Conversions and §199A



- | New pass-through provisions (§199A) provide a 20% deduction for pass-through income
- | Lesser of QBI or Taxable income
- | Safe harbor of \$157,500 or \$315,000 TI
- | QBI bigger than TI, use Roth to up TI
 - Example: Tom has QBI from his proprietorship of \$150,000, taxable income of \$120,000. Roth conversion increases taxable income, increases QBI deduction

Beneficiary Error: Naming the Estate

Naming the estate as a beneficiary is problematic for a variety of reasons

- The Will controls who gets the property
- No stretch: the 5-year rule applies, beneficiaries pay taxes sooner
- Probate applies
- Removes tax-deferred growth in regular IRA
- Removes tax-free growth in Roth IRA



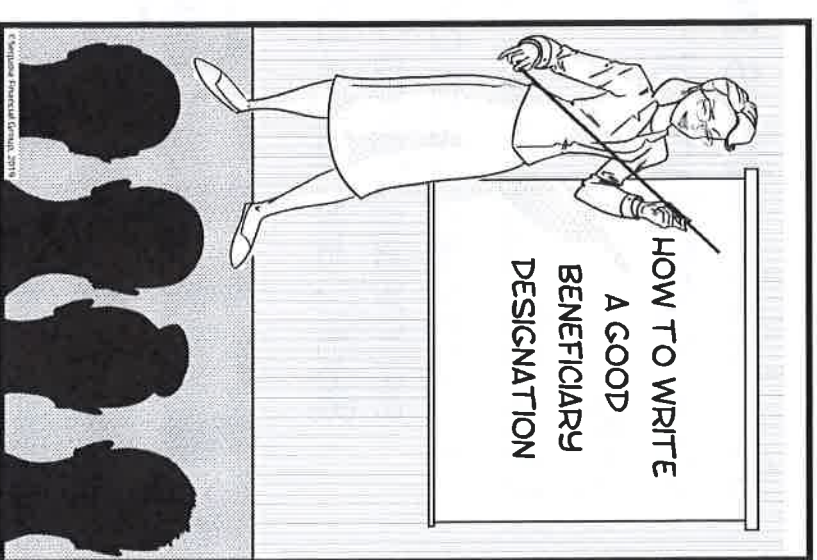
Beneficiary Error: Deceased Beneficiary



- | Things can get ugly when a beneficiary dies and beneficiary designation is not changed
- | PLR from 2015: Son dies before required beginning date, named Dad as beneficiary. Dad had died 19 years earlier. Son married subsequent to Dad's death
- | No named beneficiary so estate is beneficiary
- | Spouse asks IRS to rule that she can do a spousal rollover (instead of getting stuck with 5-year rule)
- | She gets ruling at a cost of \$10,000, plus attorneys' fees

Beneficiary Error: Not Enough Layers

- | Some people have no designation, thereby leaving the estate as beneficiary, which is a problem
- | Primary: advantage usually for spouse
- | Secondary: kids by percentages (not \$ unless there is a residual % benny)
- | Trusts: RLT needs 'see-through' provision
- | IRA Trust
- | Ancillary: Issue clause



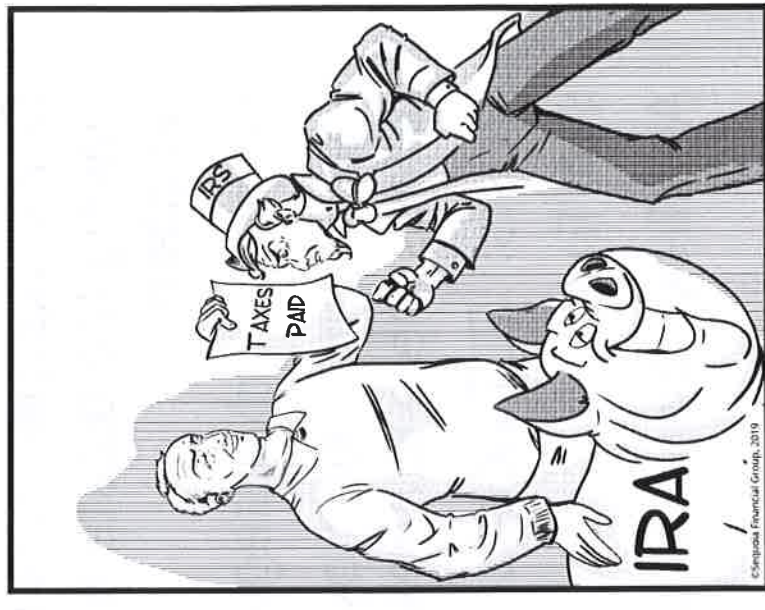
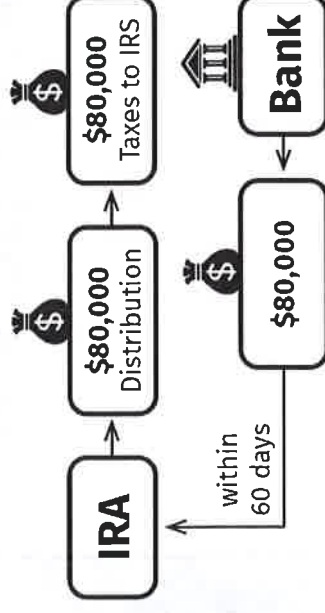
Missing the 60 Day Rule



| IRA withholdings are deemed for the whole year, even though made at the end of the year

| One 60-day rollover in a 365 day period

- Example: Leon owes \$80K in taxes over estimates, takes \$80K distribution, withholds \$80K, and pays back the \$80K within 60 days



Beneficiary Error: Mixing Kids and Charities



- | Mixing charity and individual beneficiaries can be a mistake
- | Charitable \$ distributions can thwart a stretch on the human beneficiaries
- | Better bet is to separate IRAs into a charity IRA and a stretch IRA. Name each child separately or use an IRA trust

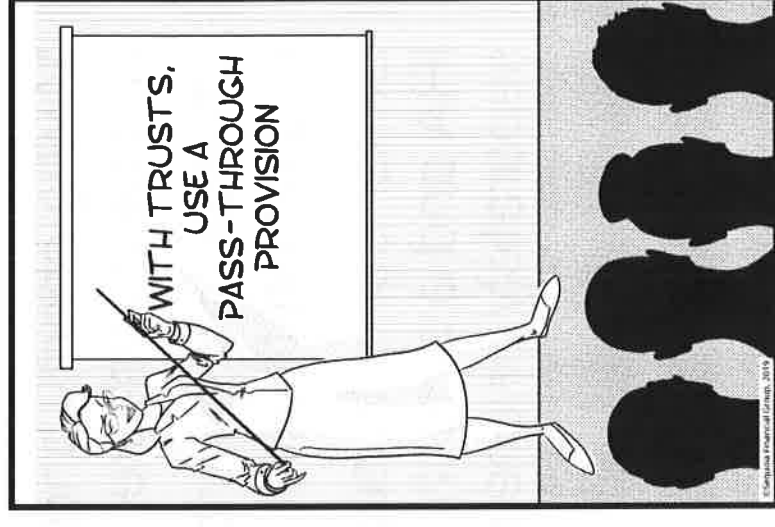


Beneficiary Error: Non-see-through Trust Provisions



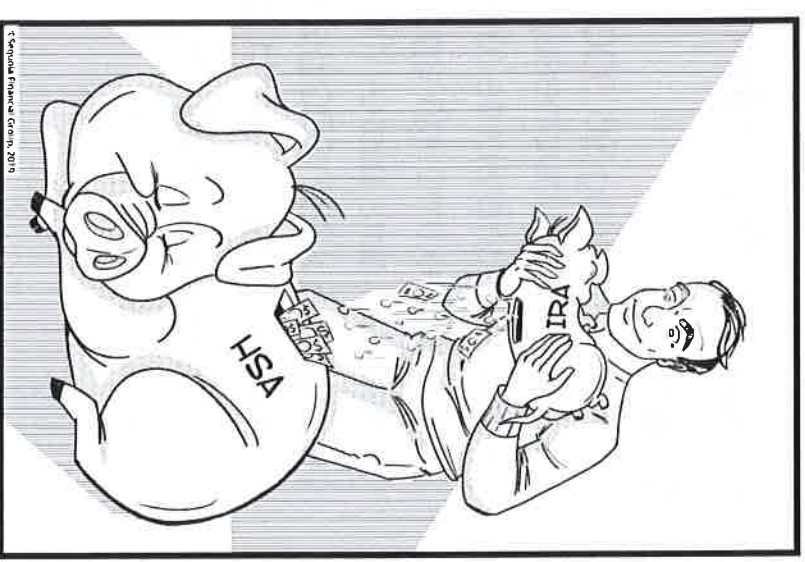
- | Revocable Living Trusts (not IRA trust) need a 'see-through' or 'pass-through' provision to allow the stretch of an inherited IRA to the beneficiaries
- | Make sure the RLT has an appropriate provision
- | Age is the oldest living beneficiary, which can bollox up a trust where you have young and old beneficiaries
- | Naming beneficiaries directly may be better bet, or splitting IRAs

5/2/2019



Opportunity: IRA to HSA Rollover

- | You can fund a Health Savings Account (HSA) with an IRA
- | Takes assets that would have been taxed and turns them into tax-free assets (as long as you have medical expenses)
- | Can do \$7,000 for 2019, plus \$1,000 if 55 or older (this is for a family, \$3,500 for single)
- | One time deal



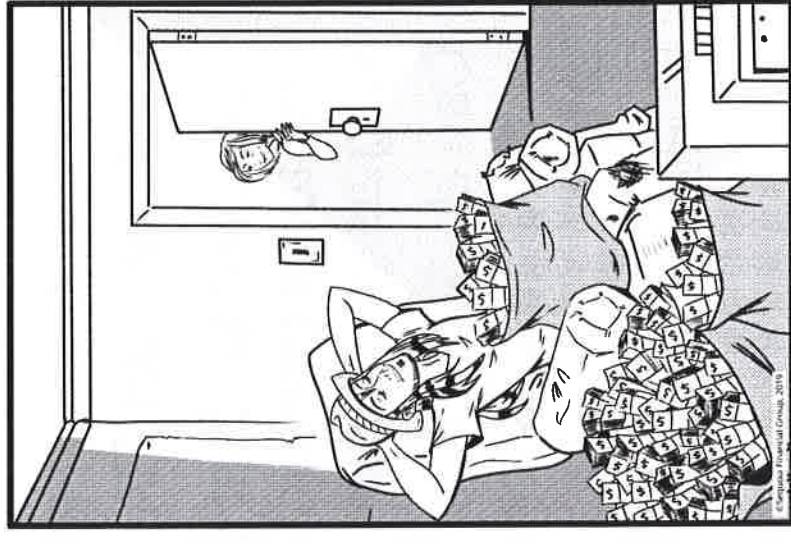
Opportunity: Kid Roth



| Fund Roth for (with) child

Example:

- Kid is making \$6,000 a year in summer jobs (or working for parent's business)
- Parents contribute (or hid) \$6,000 a year to Roth for kid
- Continue through age 22
- Investments make 7½%
- Kid has >\$57,000 by age 22
- Leave to 65, over \$1,270,000
- Kid keeps saving: \$3,112,000 at 65
- Remember FIFO



Opportunity: Mom Roth

Roth IRAs work best when the deposits are from a low tax bracket and withdrawals are from a high tax bracket

Example:

- Roth Conversion from IRA holder (ex. Parent) in a low tax bracket with a beneficiary in a high tax bracket
- Woman in her 80's in a nursing home (significant long-term expenses)
- Has Conventional IRA taking RMDs with a tax bracket of zero
- Her children were paying taxes. Roth was converted in two steps to gear her into 10% tax bracket
- End result was essentially a tax-free Roth (no more RMDs)



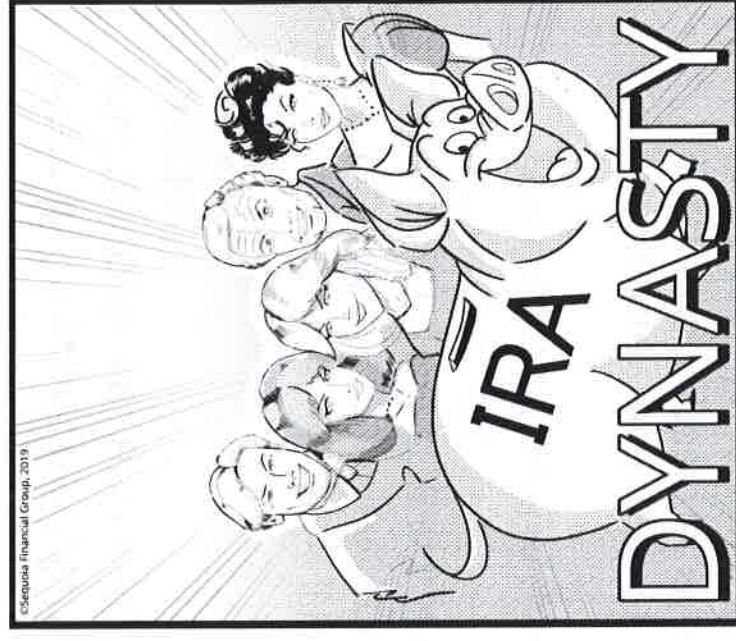
Opportunity: Dynasty Roth



| Serial Roth conversions to bracket-top, accumulate Roth, leave to second (or third) generation

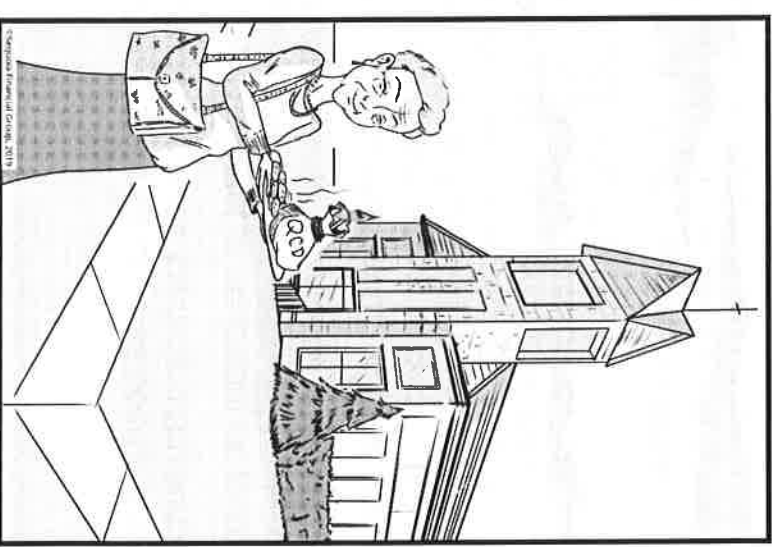
Example:

- 62 year-old couple, lots of assets, convert \$61,000 a year to Roth's to bracket top
- By 70, they stop converting and have accumulated, at 7½%, \$641,400 (taxes cumulative were \$59,200)
- Die at last survivor age 90, with \$2,725,000, leave that to 18 year-old grandsons in a IRA Trust
- Grandsons get RMD (starting at \$21,000 annual each) tax-free, for life. At their age 65, their Roth's are worth about \$12.2M each, and have taken \$8.3M of distributions



Opportunity: Qualified Charitable Distribution

- | Taxpayers over 70½ with IRAs can make charitable contributions through an IRA
- | Up to \$100K can be used
- | Offsets floors:
 - Social Security MAGI
 - Medicare B and D floors
 - Medical
- | State tax savings
- | Superior on most cases to itemized



Disclosure



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