

REUTERS / Lucy Nicholson



CHECKPOINT LEARNING[®] *Webinars*

Special Tax Issues for Senior Citizen Clients



Special Tax Issues for Senior Citizen Clients

Presented by: Timothy O'Brien, CPA, CM&AA



Copyright 2021 Thomson Reuters All Rights Reserved

This course, or parts thereof, may not be reproduced in another document or manuscript in any form without the permission of the publisher.

This material is designed to provide accurate and authoritative information in regard to the subject matter covered. It is sold with the understanding that the publisher is not engaged in rendering legal, accounting or other professional service. If legal advice or other expert assistance is required, the services of a competent professional person should be sought.

—*From a Declaration of Principles jointly adopted by a Committee of the American Bar Association and a Committee of Publishers and Associations.*

The Thomson Reuters content in this webinar is copyright protected.

If your certificate of attendance has been issued by anyone other than Thomson Reuters, this material has been obtained in violation of copyright law.

Timothy O'Brien, CPA, CM&AA

Tim O'Brien has over 45 years of experience in public accounting. In addition to his speaking, Tim is currently a senior consultant with the Star Chapman Group in Virginia, specializing in taxation of high net worth individuals and closely held businesses with clients located in many states throughout the United States.

Tim has also served as a tax partner and senior tax member for several CPA firms. He was an editorial adviser for the AICPA's Journal of Accountancy and served on several committees with the Virginia Society of CPAs.

Tim earned his Bachelor of Science degree in Accounting and Finance from Mount Saint Mary's University in Maryland. He is a member of the American Institute of Certified Public Accountants, the Alliance of Merger and Acquisition Advisors, and the American Bar Association.



Learning Objectives

Upon completion of this webinar, participants should be able to—

- Identify if and when social security benefits are taxable
- Describe the income tax considerations of going into a lower (or higher) tax bracket
- Calculate the tax results of selling a principal residence
- Determine the taxation of retirement plan distributions
- Define additional deductions and/or credits that may be available
- Explain how to avoid IRS penalties on the distribution rules for IRAs
- Evaluate senior citizens' biggest financial fears
- Perform retirement planning basics

This Area of Tax Compliance Can Hold Many Surprises!



What this Program Will Do!

- This webinar is a broad overview of the tax issues facing senior citizens today.
- The complexity of our tax laws today can confuse and overwhelm today's seniors.
- As most seniors can be fearful of a drastic change in lifestyle, here is our opportunity to remove one of the more stressful areas facing retirees today.

What this Program *Will Not* Do

- Today's webinar will not make you an expert in the area of taxation of senior citizens.
- The only way to become an expert in this area is to spend considerable time on this specialized tax area both from a practice point of view as well as education.

U.S. Rep. Massie Reintroduces Senior Citizens Tax Elimination Act on May 19, 2017

(Still Pending!!!!)

Congressman Thomas Massie re-introduced the Senior Citizens Tax Elimination Act (H.R. 2552), which would eliminate income taxes on Social Security benefits.

The bill would boost the retirement income of millions of older Americans.

“Social Security is financed with Americans’ tax dollars, so taxing Social Security is double-taxing by the Federal Government,” said Congressman Massie. “Taxing Social Security reduces benefits to seniors.”

“Income taxes on Social Security benefits is a double-tax on seniors when many are already being squeezed financially,” said Congressman Daniel Webster. “This is wrong and I’m pleased to co-sponsor this legislation to repeal this tax.”

What is Full Retirement Age (FRA)?

Full Retirement Age	
Birth Date	Full Retirement Age
1937 or earlier	65 years
1/2/38–1/1/39	65 years and 2 months
1/2/39–1/1/40	65 years and 4 months
1/2/40–1/1/41	65 years and 6 months
1/2/41–1/1/42	65 years and 8 months
1/2/42–1/1/43	65 years and 10 months
1/2/43–1/1/55	66 years
1/2/55–1/1/56	66 years and 2 months
1/2/56–1/1/57	66 years and 4 months
1/2/57–1/1/58	66 years and 6 months
1/2/58–1/1/59	66 years and 8 months
1/2/59–1/1/60	66 years and 10 months
1/2/60 and later	67 years

Worker's Early Retirement

- Early retirement as early as age 62, with a reduction
- If you turn 62 in June the first payment will be for July paid in August.
- Delayed credit for those who wait beyond their FRA-8% per year.

Year of Birth	Normal Age (NRA)	Benefit, as a percentage of PIA, beginning at age--						
		62	63	64	65	66	67	70
1943-54	66	75	80	$86\frac{2}{3}$	$93\frac{1}{3}$	100	108	132
1955	66, 2 mo.	$74\frac{1}{6}$	$79\frac{1}{6}$	$85\frac{5}{9}$	$92\frac{2}{9}$	$98\frac{8}{9}$	$106\frac{2}{3}$	$130\frac{2}{3}$
1956	66, 4 mo.	$73\frac{1}{3}$	$78\frac{1}{3}$	$84\frac{4}{9}$	$91\frac{1}{9}$	$97\frac{7}{9}$	$105\frac{1}{3}$	$129\frac{1}{3}$
1957	66, 6 mo.	$72\frac{1}{2}$	$77\frac{1}{2}$	$83\frac{1}{3}$	90	$96\frac{2}{3}$	104	128
1958	66, 8 mo.	$71\frac{2}{3}$	$76\frac{2}{3}$	$82\frac{2}{9}$	$88\frac{8}{9}$	$95\frac{5}{9}$	$102\frac{2}{3}$	$126\frac{2}{3}$
1959	66, 10 mo.	$70\frac{5}{6}$	$75\frac{5}{6}$	$81\frac{1}{6}$	$87\frac{7}{9}$	$94\frac{4}{9}$	$101\frac{1}{3}$	$125\frac{1}{3}$
1960 and later	67	70	75	80	$86\frac{2}{3}$	$93\frac{1}{3}$	100	124

Applying for Benefits

- You can apply for benefits—
 - Online at www.ssa.gov
 - In person at a local SSA office, or
 - By phone by calling **(800)772-1213**
- Earliest you can apply is 61 and 9 months (to be sure you get the first payment starting at age 62)

Who Can Collect Benefits Off of a Worker's Account

Who	Basic Rules
Spouse-up to 50% at FRA.	<ul style="list-style-type: none"> Entitled to up to 50% of the workers benefit at the spouses full retirement age. Spouse can take benefits as early as age 62 with a reduction. Benefit is not reduced for a spouse taking care of a qualifying child-child is under age 16 or receives SS disability benefits. Worker must file for spouse to get the benefit.
Children	<p>Child is unmarried and:</p> <ul style="list-style-type: none"> Under age 18 or Be ages 18-19, full-time student up to grade 12. 18 and older and disabled before age 22 <p>Worker must file for the children to get the benefit</p>
Ex-spouse	<p>Ex-spouse is <u>unmarried</u> and</p> <ul style="list-style-type: none"> Marriage lasted at least 10 years or longer Ex-spouse is age 62 or older. <p>Worker does not have to file and not subject to family maximums</p>
Surviving Spouse-up to 100% at FRA	<ul style="list-style-type: none"> Entitled to benefits with reduction as early as age 62. If surviving spouse remarries before age 60(age 50 if disabled) benefits cease. If survivor remarries after age 60 – they will continue to qualify for the benefit. Surviving divorced spouses are also entitled to the benefit.

Medicare

- While the Social Security FRA has increased the age for Medicare remains at age 65.
- Initial enrollment is three months before and three months after your 65th birthday.
 - Sign up online at www.ssa.gov/benefits/medicare or www.medicare.gov
- Your premium can be increased by 10% for each 12 months you are late on signing up for Part B unless you have group coverage.

Medicare – Is it Deductible?

- Premiums for Part B, for Medicare private health plans and for Part D drug plans. If you have to pay a premium for Part A, that's allowed too.
- Premiums for medigap supplemental insurance.
- The amount you pay out of pocket for deductibles and copayments or coinsurance for Medicare Parts A, B and D services.
- The amount you pay out of pocket for prescription drugs in the Part D doughnut hole.
- Amounts you pay out of pocket for services Medicare does not generally cover, such as routine checkups, hearing aids, medically necessary eyeglasses and contact lenses, dental treatment and nursing home care.
- Premiums for long-term care insurance

This is a Fast Growing Area that Financial and Tax Advisors are Jumping on

- Baby Boomers are retiring in staggering numbers (more on actual numbers later).
- Many have businesses that need exit planning strategy.
 - Should the business be—
 - sold on the open market,
 - sold to employees, or
 - maybe gifted/transferred to a trust for the benefit of children or grandchildren?
- Lots of factors to consider. This seems to be a natural area of consulting for the CPA/Tax Advisor.

Fast Growing Area?

- The AICPA thinks so. It was not that long ago that SALT (State and Local Taxation) was the hot area, and it is still very hot.
- With the ever expanding definitions of NEXUS this area remains white hot as an area to provide service.
- But the charge of the baby boomers is right there too.

Retirement Planning Basics and Considerations

- What are the basics? At a minimum consideration should be given to—
 1. The first step is to gather as much information as possible. No amount of information is too much and of course there will always be several attempts at a successful and comprehensive plan.
 2. The plan should include the creation of an effective retirement income plan that will help the client maintain their desired lifestyle over their remaining years.
 3. Be sure to specifically identify retirement needs, objectives and measure those traits against the client's current financial situation.
 4. When necessary attempt to formulate appropriate strategies to close any income gap.
 5. Work with the appropriate professionals (if you do not have the current expertise) to evaluate income tax, estate tax, gift tax, and trust issues.
 6. If appropriate, recommend a retirement age that may integrate benefits from retirement plans with social security.

Retirement Planning Basics and Considerations

- What are the basics? At a minimum consideration should be given to—
 7. Select the preferred investment strategies for accumulating retirement assets.
 8. Do not forget long term care needs.
 9. Is it possible that retirement will mean a change of housing for the client?
 10. Formulate a tax favored strategy for plan withdrawals from any tax advantaged plans.

Retirement Planning Basics and Considerations

- As stated, Retirement Planning is more than just numbers. It is dealing with people and all of their emotions and insecurities – primarily their worry about running out of money (a retirees number one fear).
- Estimates are that there will be 7,000 people reaching retirement age every day for the next 17 years.
- And with the difficult financial times we find ourselves in it is not at all uncommon for people to postpone retirement and instead make the decision to continue working.

Retirement Planning Basics and Considerations

- As we all know there is no “one size fits all” retirement plan. Regardless of a retiree’s financial position, it is the intangibles that make a retirement plan successful.
- Does the client want to continue with their current standard of living?
- Are there enough assets and investments that can be drawn upon to pay for the basic bills and still have some left over for discretionary expenses?
- And what about income and estate taxes?

Retirement Planning Basics and Considerations

- What is *retirement success*?
 - Being able to meet all the retirement goals and possibly having some left over for heirs. (This is what the bulk of my clients tell me. The psychology of working with soon-to-retain individuals could be a course by itself.)
- The “Big Three” areas to address with retirees are—
 1. How they make decisions
 2. Income that is expected to be received versus what the income will actually be
 3. Overall expectations of the retirement bound individual
- Remember, life expectancy continues to go up and there will be more need for income than ever before.
- What we are seeing is clients in the retirement phase are willing to give up some access to their assets in exchange for a longer income stream.

Some IRA History

- Individual Retirement Accounts (IRAs) were introduced in 1974 with the enactment of the Employment Retirement Income Security Act (ERISA).
- Taxpayers could contribute up to \$1,500 a year and reduce their taxable income by the amount of their contributions.
- ERISA initially restricted IRAs to workers who were not covered by a qualified employment based retirement plan.
- In 1981, the Economic Recovery Tax Act (ERTA) allowed all taxpayers under the age of 70½ to contribute to an IRA, regardless of their coverage under a qualified plan. It also raised the maximum annual contribution to \$2,000 and allowed participants to contribute \$250 for a nonworking spouse.

Some IRA History

- The Tax Act of 1986 phased out the deduction for IRA contributions among higher earning workers who were covered by an employment-based retirement plan.
- But those earning above the amount that allowed non-deductible contributions to their respective IRAs.

Maximum IRA Contribution By Year

1975–1981	\$1,500
1982–2001	\$2,000
2002–2004	\$3,000
2004–2007	\$4,000
2008–2013	\$5,000
2014–2018	\$5,500
2019–2020	\$6,000

Note: Taxpayers over age 50 can make a \$1,000 catch up contribution in addition to the above limits.

Permitted IRA Investments

- IRAs cannot be invested in life insurance or collectibles. If invested in collectibles, the amount invested will be treated as an investment in the year invested and if conditions are right could be subject to the 10% early distribution penalty.
- This rule also applies to SEPs and Simple IRAs as each of these plans is an IRA.
- Losses inside an IRA cannot be deducted on the tax return of the plan owner.

Non-Permitted IRA Investments

- What are some examples of collectibles?
 - Artwork
 - Rugs and Antiques
 - Metals, with some exceptions for certain kinds of bullion,
 - Gems
 - Stamps
 - Certain coins

Does the 3.8% Investment Surtax Apply to Retirement Funds?

- The investment surtax of 3.8% does not apply to MOST retirement payments. It could apply to certain non-qualified annuity payments.
- However, the retirement payment will increase your income and COULD put you over the threshold to where the surtax will apply.
 - For example, the surtax will apply if MAGI is over \$250,000 (married/joint).
 - If a couple's MAGI is \$235,000 and they take a \$25,000 IRA distribution, it increases their MAGI to \$260,000, making some of their investment income subject to the surtax.

Types of IRAs

- Roth IRA named in honor of Senator William Roth and was part of the Taxpayer Relief Act of 1997.
- Contributions are made with after tax assets and withdrawals are usually tax free.

Types of IRAs

- Traditional IRA. Contributions are often tax deductible and earnings within the IRA have no immediate tax impact as the earnings are tax deferred. Withdrawals at retirement are taxed as income (except for the amounts that correspond to the non-deductible portions of the IRA contributions)
- You may hear this type of IRA referred to as a “deductible IRA” or a “non-deductible” IRA.

Types of IRAs

- SEP IRA. An employer (usually a small business or self-employed individual) makes retirement plan contributions directly into a traditional IRA established in the employee's name.
- SIMPLE IRA. This is a simplified employee pension plan that allows both employer and employee contributions. It is similar to a 401(k) plan but has lower contribution limits and simpler plan administration.

Distribution of IRA Funds

- Funds can be withdrawn from an IRA at any time, although there may be penalties. Unless an exception applies (we will go over some of them later) money can be taken from the IRA penalty free once the account owner reaches age 59½.
- Non-Roth IRA account owners must begin taking distributions by April 1st of the year after reaching age 70½. If the amount based on IRS actuary tables is not taken the penalty is a whopping 50% of the amount that should have been taken.

Distribution of IRA Funds

- At the death of the IRA account owner, distributions must continue and if there is a designated beneficiary distributions can be based on the life expectancy of the beneficiary.

Exceptions to Penalties for Early Withdrawal of Funds

- These can be complex and each exception has its own set of rules.
- Exceptions include:
 - Unreimbursed medical expenses more than 10% of AGI
 - Distributions not more than the cost of medical insurance while not employed
 - Disability (not able to engage in any substantial gainful activity)

Exceptions to Penalties for Early Withdrawal of Funds

- Amounts distributed to beneficiaries of a deceased IRA owner
- Distributions in the form of an annuity (aka substantially equal periodic payments)
- Distributions for certain higher education expenses of the owner, children or grandchildren
- Distributions to buy, build, or rebuild a first home. There are limits here so be sure to check the current amount.
- Distributions to pay an IRS levy of the plan.

Are Social Security Benefits Taxable?

- *It depends*—the best answer to just about any tax question.
- To determine the taxability of Social Security benefits, it's first necessary to calculate “provisional income”—a measurement of income used specifically for these purposes.
- Provisional income is calculated as your total income (essentially the net amounts included on the front page of your tax return in calculating Adjusted Gross Income), plus any tax-exempt income (e.g., from municipal bonds) and excluded foreign income, plus one half of your Social Security benefits.

Do Seniors Still Have to File Tax Returns?

- There are times when seniors include social security received in their gross income.
 - Married Filing Separate and living with a spouse all year will do it.
- Also, some SS benefits are included in gross income regardless of filing status in any year where the sum of half of the social security plus all other income exceeds \$25,000 or \$32,000 if MFJ

Do Seniors Still Have to File Tax Returns?

When Seniors Must File

- For tax year 2019, you had to file a return if—
 - you are unmarried,
 - at least 65 years of age, and
 - your gross income is \$13,850 or more.
- However, if you live on Social Security benefits, you don't include this in gross income.
- If this is the only income you receive, then your gross income equals zero, and you don't have to file a federal income tax return.

Do Seniors Still Have to File Tax Returns?

When Seniors Must File

- For the 2019 tax year—
 - If you are married and file a joint return with a spouse who is also 65 or older, you must file a return if your combined gross income is \$27,000 or more.
 - If your spouse is under 65 years old, then the threshold amount decreases to \$25,700.
- Keep in mind that these income thresholds only apply to the 2019 tax year, and generally increase slightly each year.

What States Have No Income Tax?

- Alaska
- Florida
- New Hampshire*
- Nevada
- South Dakota
- Tennessee*
- Texas
- Washington
- Wyoming

Note:

* NH and TN do, however, tax dividends and interest.

What States Exclude Federal, State, and Local Government Pension Income?

- Alabama
- Hawaii
- Illinois
- Kansas
- Louisiana
- Massachusetts
- Michigan
- Mississippi
- New York
- Pennsylvania

Are there States that Do Not Tax Social Security?

- | | | |
|--------------|------------------|--------------------|
| • Alabama | • Kentucky | • Ohio |
| • Arizona | • Louisiana | • Oklahoma |
| • Arkansas | • Maine | • Oregon |
| • California | • Maryland | • Pennsylvania |
| • Delaware | • Massachusetts | • South Carolina |
| • Georgia | • Michigan | • Virginia |
| • Hawaii | • Mississippi | • Washington, D.C. |
| • Idaho | • New Jersey | • Wisconsin |
| • Illinois | • New York | |
| • Indiana | • North Carolina | |

Sale of Principal Residence

- Is a senior citizen's sale of a principal residence a taxable event?
- Again, it depends.
- Factors entering into this situation include ownership tests, amount of gain or loss, how to report the sale, and the amount of the exclusion.
- **Ownership and Use Test**
 - The amount of the exclusion is \$500,000 for MFJ, or \$250,000 if not MFJ.
 - To qualify for the exclusion in 2018 and going forward, taxpayer(s) during the 5-year period ending on the date of sale owned and lived in the house for 2 years of the 5-year period ending on the date of the sale.

Sale of Principal Residence

- A loss on the sale of the principal residence cannot be deducted.
- The IRS states that the sale of the residence does not need to be reported unless there is—
 1. a gain and all of it cannot be excluded,
 2. a gain and choose not to exclude it, or
 3. a loss and a Form 1099-S was received.
- For more information, see IRS Pub. 523

Income Tax Considerations for Employer Sponsored Retirement Plans

- This is a complex area with lots of paperwork.
- ERISA requires:
 - Distribution election forms
 - Notices and release forms for qualified joint and survivor rules
 - A right to make a direct rollover
 - Information about the tax treatment of distributions

Income Tax Considerations from Employer Sponsored Retirement Plans

- Why is the correct distribution method important?
 1. In most cases, the election is irrevocable.
 2. Often, these decisions involve substantial assets with significant taxable amounts.
 3. Mistakes in this field can be costly, with penalties of 10% and maybe even 50%!!
 4. Bad advice to a client can be a malpractice disaster for the advisor.

Income Tax Considerations from Employer Sponsored Retirement Plans

- To roll over or not roll over, that is the question.
- Factors in favor of rolling over distributions, when possible, include—
 1. The plan participant wants control over the timing and amounts of the withdrawals.
 2. The participant wants to control investment options and decisions.
 3. Maybe the participant wants an annuity option that is not available in the current plan.
 4. Or deferral until tax rates change is considered.

Income Tax Considerations from Employer Sponsored Retirement Plans

- Factors *against* a rollover include—
 1. If an annuity is the best option and the largest annuity payment is inside the plan.
 2. If the rollover is employer stock, the rollover will not be able to take advantage of any market appreciation.
 3. There may be a less favorable cost recovery method.

Taxation of Retirement Plan Benefits: Required Minimum Distributions (RMDs)

- The deadline for taking RMDs is December 31 each year.
- If you have an IRA, you may delay taking your first RMD (and only your first) until April 1 of the year after you turn 72.
- If you choose to delay your first RMD, you'll have to take your first and second RMD in the same tax year to understand how delaying your first RMD impacts your taxes and future RMDs.

Taxation of Retirement Plan Benefits: Required Minimum Distributions (RMDs)

- For your workplace retirement accounts, if you are still working and don't own more than 5% of the business you're employed by, you may be able to delay taking an RMD until April 1 of the year after you retire.
- Keep in mind, this rule does not apply to IRAs or plans with companies you no longer work for.

Taxation of Retirement Plan Benefits: Required Minimum Distributions (RMDs)

- **Retirees are usually** required to take withdrawals from their retirement accounts each year after age 72.
- However, the Coronavirus Aid, Relief, and Economic Security Act allows you to skip your 2020 required minimum distribution from a 401(k), IRA, 403(b), 457(b) and inherited IRA.

Taxation of Retirement Plan Benefits: Required Minimum Distributions (RMDs)

- Retirement plan participants and IRA owners are responsible for taking the correct amount of RMDs on time every year from their accounts, and they face stiff penalties for failure to take RMDs.

Types of Plans That Require Minimum Distributions

- The RMD rules apply to all employer sponsored retirement plans, including profit-sharing plans, 401(k) plans, 403(b) plans, and 457(b) plans.
- The RMD rules also apply to traditional IRAs and IRA-based plans such as SEPs, SARSEPs, and SIMPLE IRAs.
- The RMD rules also apply to Roth 401(k) accounts.
- However, the RMD rules *do not* apply to Roth IRAs while the owner is alive.

Required Date for Distributions from an IRA

- Your client must take their first required minimum distribution for the year in which they turn age 72.
- However, the first payment can be delayed until April 1 of the year following the year in which they turn 72.
- For all subsequent years, including the year in which they were paid the first RMD by April 1, they must take the RMD by December 31 of that year.
- But don't forget RMDs for 2020 have been suspended

Calculation of the RMD

- Generally, a RMD is calculated for each account by dividing the prior December 31 balance of that IRA or retirement plan account by a life expectancy factor that IRS publishes in tables in **Publication 590, *Individual Retirement Arrangements (IRAs)***.
- Use the:
 - **Joint and Last Survivor Table** if the sole beneficiary of the account is the spouse and the spouse is more than 10 years younger;
 - **Uniform Lifetime Table** if the spouse is not the sole beneficiary or the spouse is not more than 10 years younger; and
 - **Single Life Expectancy Table** if your client is a beneficiary of an account.

RMDs When there are Multiple IRAs

- An IRA owner must calculate the RMD separately for each IRA owned, but can withdraw the total amount from one or more of the IRAs.
- Similarly, a 403(b) contract owner must calculate the RMD separately for each 403(b) contract, but can take the total amount from one or more of the 403(b) contracts.
- However, RMDs required from other types of retirement plans, such as 401(k) and 457(b) plans have to be taken separately from each of those plan accounts.

Calculation of the RMD Each Year – Responsibility

- Although the IRA custodian or retirement plan administrator may calculate the RMD, the IRA or retirement plan account owner is ultimately responsible for calculating the amount of the RMD.
- But then again this policy is totally consistent with most IRS positions.

Failure to Take an RMD by the Required Deadline

- If an account owner fails to withdraw a RMD, fails to withdraw the full amount of the RMD, or fails to withdraw the RMD by the applicable deadline, the amount not withdrawn is taxed at 50%.
- The account owner should file **Form 5329, *Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts***, with his or her federal tax return for the year in which the full amount of the RMD was not taken.
- But what about possible penalty abatement?

Is there any Possibility of Penalty Abatement?

- Yes, the penalty may be waived if the account owner establishes that the shortfall in distributions was due to reasonable error and that reasonable steps are being taken to remedy the shortfall.
- To qualify for this relief, your client must file **Form 5329** and attach a letter of explanation.
- See the instructions to Form 5329
- Generally, reliance on a paid tax professional can get this penalty abated.

RMD – Some Quick Q&As

Q: Can a distribution in excess of the RMD for one year be applied to the RMD for a future year?

A: Nope, sorry.

Q: How are RMDs taxed?

A: The account owner is taxed at his or her income tax rate on the amount of the withdrawn RMD. However, to the extent the RMD is a return of basis or is a qualified distribution from a Roth IRA, it is tax free.

Q: Can RMD amounts be rolled over into another tax-deferred account?

A: No.

Are Plan Contributions for an Employee Receiving RMDs Required?

- If your client is still employed but receiving RMDs their employer must continue contributions for them, even if they are receiving RMDs.
- The employer must also give the employee the option to continue making salary deferrals, if the plan permits them. Otherwise, there will be a failure to follow the plan's terms, causing the retirement plan to lose its qualified status.
- This problem can be corrected through the Employee Plans Compliance Resolution System (EPCRS).

Estate Tax Exemption

- The Tax Cut and Jobs Act of December 2017 increased the amount that a U.S. citizen or resident can transfer to another individual free of estate, gift or Generation-Skipping Transfer taxes (collectively, the “transfer taxes”).

Estate Tax Exemption

- What is the transfer tax exemption for 2020?
 - The lifetime exemption amount for all three transfer taxes is computed with reference to a base amount of \$10 million per taxpayer, plus an annual inflation adjustment.
 - The inflation adjustment is determined yearly by the IRS.
 - For 2020, the transfer tax exemption amount is \$11.58 million.
 - The tax rate applicable to transfers above the exemption amount is currently 40%.

Estate Tax Exemption

- What does the sunset provision of the Act mean?
 - The Tax Cuts and Jobs Act provided that the higher exemption levels are effective through 2025, and revert to prior law (with the exception of retaining the formula for computing the inflation adjustment) on January 1, 2026.
 - Thus, unless the tax law changes between now and then, the exemption amount per taxpayer will be back to \$5 million, plus the inflation adjustment, on January 1, 2026.

Estate Tax Exemption

- How does the gift tax annual exclusion work with the lifetime exemption?
 - The gift tax annual exclusion, which is also adjusted for inflation and set by the IRS annually, allows taxpayers to make certain gifts without eroding their lifetime exemption amount.

Estate Tax Exemption

- What does this mean for taxpayers?
 - The changing landscape of the federal transfer taxes has led to challenges and opportunities in estate planning.
 - In view of the recent changes and the scheduled sunset of the estate, gift, and tax exemption amounts, taxpayers should consult tax planning professionals.

Also, Divorce is Something that Sometimes Happens to Seniors

- Federal tax law has long provided that support payments to an ex-spouse, known as *alimony*, are generally taxable to the recipient and deductible to the payor.
- For over 75 years, divorcing couples (and divorce attorneys) have relied on this treatment of alimony.
- The Tax Cuts and Jobs Act of 2017, however, eliminated the tax deduction for alimony payments, upending longstanding law.
- What do you need to know after the 2017 Tax Act?

Also, Divorce is Something that Sometimes Happens to Seniors

- Timing is important. The new law's treatment of alimony applies only to spousal support paid under a divorce instrument executed after December 31, 2018.

Also, Divorce is Something that Sometimes Happens to Seniors

- If you are currently paying alimony on a tax-deductible basis, your payments will continue to be tax deductible.
- The new law grandfathers the alimony tax deduction for all alimony paid under a pre-2019 divorce instrument.
- Furthermore, any future modifications to alimony paid under a pre-2019 divorce instrument remains tax deductible unless the modification expressly states that the new tax law's treatment of alimony will apply.

Also, Divorce is Something that Sometimes Happens to Seniors

- Pre-2019 prenuptial agreements
 - You may be wondering whether your existing prenuptial agreement's alimony provision preserves the alimony tax deduction for a post-2018 divorce.
 - Unfortunately, there's no clear answer yet as to whether a prenuptial agreement will suffice, though it looks highly unlikely.
 - You may want to consider adding language to your prenuptial agreement that accounts for this uncertainty.

Also, Divorce is Something that Sometimes Happens to Seniors

- The old tax structure was extremely complex, with both advantages and disadvantages.
- An advantage came into play when there was a significant difference in the taxable incomes of the two divorcing parties.
- In that situation, total “family” cash flow could be increased by shifting taxable income from the higher tax bracket of the alimony payor to the lower tax bracket of the alimony recipient.
- However, there were several “traps for the unwary” which had to be carefully planned for in crafting alimony provisions.
- Failure to properly comply with these complex requirements could lead to the unintended consequence of the alimony payments not having the tax-shifting effect.

Also, Divorce is Something that Sometimes Happens to Seniors

- The new tax law achieves a desirable simplicity when it comes to the support provisions of an agreement or court order.
- Those provisions can now be very straightforward and the financial impact on each party will be crystal clear.
- Neither alimony nor child support payments will have any tax consequences to either party—the financial situation of each party after making or receiving the support payments will be easily discernable.
- And there will be no need to comply with complicated rules in order to ensure the desired tax treatment.

Additional Deductions and/or Credits that May Be Available

Standard Deduction for Seniors

- If your client does not itemize deductions, they can get a higher standard deduction amount if they are 65 years old or older.
- They can get an even higher standard deduction amount if either spouse is blind.
 - (See Form 1040 and Form 1040A instructions.)

Additional Deductions and/or Credits that May Be Available

Credit for the Elderly or Disabled

- Your client must file using Form 1040 or Form 1040A to receive the Credit for the Elderly or Disabled.
- They cannot get the Credit for the Elderly or Disabled if filing and using Form 1040EZ.
- The Credit is based on filing status and income.
- You may be able to take the Credit if—
 - Taxpayer and/or spouse are either 65 years or older, or
 - Under age 65 years old and are permanently and totally disabled.
- Calculating the Credit:
 - Use **Schedule R (Form 1040 or 1040A), Credit for the Elderly or Disabled**, to figure the amount of the credit.
 - See the instructions for Schedule R (Forms 1040 or 1040A) if you want the IRS to figure this credit for you.

Some Facts About Early Distributions from Retirement Plans

- Payments your client receives from their Individual Retirement Arrangement before reaching age 59½ are generally considered early or premature distributions.
- Early distributions are usually subject to an additional 10% tax, but there are exceptions which we will cover shortly.

Some Facts About Early Distributions from Retirement Plans

- Early distributions must also be reported to the IRS.
- Distributions rolled over to another IRA or qualified retirement plan are not subject to the additional 10% tax.
- The transaction (rollover) must be completed within 60 days after the day the distribution was received.

Some Facts About Early Distributions from Retirement Plans

- The amount rolled over is generally taxed when the new plan makes a distribution to the plan participant or the designated beneficiary.
- If nondeductible contributions are made to an IRA and later the participant takes early distributions, the portion of the distribution attributable to those nondeductible contributions is not taxed.
- If early distributions are received from a Roth IRA, the distribution attributable to the prior contributions is not taxed.

Some Facts About Early Distributions from Retirement Plans

- If your client received a distribution from any other qualified retirement plan, generally the entire distribution is taxable unless it was made with after-tax employee contributions to the plan.
- There are several exceptions to the additional 10% early distribution tax, such as when the distributions are used for the purchase of a first home (up to \$10,000), for certain medical or educational expenses, or if you are totally and permanently disabled.

Random Thoughts on Roth Conversions

- The decision to roll over or not is not simple and many factors need to be considered. At the bare minimum, you have to crunch the numbers to have some kind of basis for advising your client.
- Most of the factors that help decide to convert or not are outside of your control, for example tax rates in 2019 vs 2020 and beyond. Will the current tax rates be extended?
- As we know, nothing in taxes is permanent.

Random Thoughts on Roth Conversions

- Why is this seemingly beneficial tax transaction entered into the tax system?
- The answer of course is to accelerate the payment of taxes into the Treasury.
- After the payment of taxes, how many years at what rate of earnings will be required to bring the IRA back to the position it was in dollar wise before the conversion.
- It is early enough in the year to consider a conversation.

Random Thoughts on Roth Conversions

- Taxpayers who converted in 2010 did not have to include any of the conversion income on their 2010 tax return but did include half on their 2011 return and the other half on their 2012 return.
- Make sure your clients' IRA custodians allow for a direct trustee-to-trustee transfer when going from a regular to a Roth IRA.
- Some custodians do not allow this and odds are your client does not know if his custodian permits this transfer.
- Trustee-to-trustee transfer is the easiest way to make sure there is a minimal risk of penalties.

Random Thoughts on Roth Conversions

- A Roth conversion may result in higher Medicare costs and increase in the taxation of social security benefits.
- Some financial aid for students may be effected due to the higher income on the tax returns of those making the conversion.
- There will be new forms, lots of forms, to fill out with the plan custodian as a result of the conversion.
- Each new account you open will have to include a new beneficiary form that needs to be properly completed and submitted.

In Conclusion

- Remembering that the Roth conversion is not just a tax decision, it is also a financial decision, here are seven steps to a successful Roth IRA conversion in a nutshell:
 1. **Evaluate your client's IRA and other [probably 401(k)] plans.** Any assets held in traditional IRAs are eligible, as are the 401(k) assets.
 2. **Seek outside advice if you are not sure.** Working with a CFP or an estate attorney is not a sign of weakness on your part but rather shows leadership and establishes you as the financial team quarterback and the client's "go-to" person.
 3. **Weigh both the financial and tax factors.** I think we have driven this point home successfully.
 4. **Calculate the tax.** Use existing rates, that is all you have at the moment. But make sure to also use some projected future tax rates.
 5. **Decide when to pay the tax bill.** The main consideration here is the time value of money.
 6. **Consider when to convert.** Isn't that what we have been working towards all along.
 7. **Make yourself invaluable.** Be indispensable to your client by means of considerable handholding throughout this process.

Q&A

We will be happy to take questions at this time.

CHECKPOINT LEARNING®

WEBINARS

400+ Annual
Events From
1 to 8 Hours

Upcoming Webinars

- 11/16/21 Federal Tax Update
- 11/16/21 Auditors' Report: A Review of Reporting Choices
- 11/16/21 Key Considerations in Auditing Revenue
- 11/17/21 How to Audit Long-term Debt and Related Accounts
- 11/17/21 Cracking the Code: Efficient and Thorough Tax Research Techniques
- 11/17/21 Global Trade and Corruption Awareness for Professionals
- 11/18/21 M&A Practice Aids: A Toolkit for Ensuring Transaction Best Practice
- 11/18/21 SSARS 21: Review Engagements
- 11/19/21 Financial Performance Measurement and Analysis
- 11/19/21 Monthly Tax Alert
- 11/19/21 Monthly Corporate Tax Update

All Free with Premier Plus!



CHECKPOINT LEARNING®

Register Now!

	Premier Plus	Premier
Unlimited CPE for CPAs and EAs	2,500+ CPE credits	2,500+ CPE credits
CPE tracker and compliance monitoring	✓	✓
Multi-year savings	✓	✓
Online courses	500+	500+
Webinars	Unlimited webinars, any length	Unlimited 1-2 hour webinars
25% discount on live online seminar and conference CPE hours	Up to 40 hours	Up to 24 hours
Professional development learning plans	✓	
Nano courses	✓	Available for Purchase
Two-day virtual Year-End Mega Conference (\$399 value)	✓	Available at Discount
Starting at	\$439 per year	\$309 per year



Thousands of CPE credits

Earn virtually unlimited CPE with hundreds of online courses and webinars* that meet any learning style or topic.



Wide range of topics

Our robust selection of courses cover taxation, audit, accounting, ethics, professional development, and more.



Ultimate flexibility

With multiple ways to learn, you can work at your own pace, however you learn best.



Easily track your CPE requirements

Track CPE with our automated online CPE tracker, with compliance monitoring for over 70 jurisdictions.



Meet your learning needs

Keep up with the knowledge and skills you need to best serve your clients.



Save on seminars and conferences*

Supplement your coursework with 25% savings on live online seminars and conferences.*

*Applies to Premier and Premier Plus subscriptions only.

