

Passaro & Kahne Law Office, P.L.L.C.



Passaro & Kahne
Law Office, P.L.L.C.

Estate Planning • Probate • Business Tax Planning • Real Estate Law • Charitable Giving
Elder Law • Business Succession Planning • Family Wealth Succession Planning • Condominium Law

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The IRA Charitable Rollover: The Realities

- William E. Westerbeke
- Brian G. Holt

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IRAs

- Tax Deduction on Contribution
- IRA Builds Tax Free
- Taxation upon Distribution
- Nondeductible Contributions
- Roth IRAs

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Contributions

- Deductions for IRA Contributions

Year	Deduction
2006	\$4,000
2007	\$4,000
2008	\$5,000
2009	\$5,000

- Catch-up Contributions

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Early Distributions

- Early Distributions
- 10% Penalty if before 59.5
- Exceptions:
 - Medical Insurance Premiums of Unemployed Individuals
 - Education Expenses
 - First-Time Homebuyer Expenses

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Minimum Required Distributions

- Required Beginning Date
- Minimum Required Distributions
 - Prior Year-End Balance
 - Life Expectancy Factor
- Life Expectancy Tables
- Taxation

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Beneficiary Finalization Date

- Beneficiary Finalization Date (aka Determination Date) is September 30 of the year following the year of death.

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Beneficiaries: Spouse

- Rollover
- Payout
- Delay

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Beneficiaries: Non-Spouse Persons

- One Designated Beneficiary (single life expectancy)
- Multiple Designated Beneficiaries (oldest beneficiary's single life expectancy for all beneficiaries)

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Beneficiaries: Trusts

- Look-Through Rule
- One Beneficiary (single life expectancy)
- Multiple Beneficiaries (oldest beneficiary's single life expectancy for all beneficiaries)

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Beneficiaries: Estates

- No Designated Beneficiary
- Before RBD (5 years)
- After RBD (life expectancy = owner's, not beneficiaries)

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Beneficiaries: Charities

- No Designated Beneficiary
- Before RBD (5 Years)
- After RBD (life expectancy = owner's, not beneficiaries)
- Consider Cashing Out Charity before Beneficiary Finalization Date

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1. Traditional Charitable Distributions

- Distribution to IRA Owner
- Check to Charity
- Included in Gross Income; Charitable Deduction

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2. Qualified Charitable Distributions

- Comparison to Traditional Method
- Direct Transfer to Charity
- Limits on Types of Charities (not donor advised funds or supporting organizations)

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2. Qualified Charitable Distributions

- Up to \$100,000
- Age 70.5
- Expires in 2007
- Only for IRAs

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3. Indirectly Benefit to Charities with Distributions

- Take RMD; Pay Premiums for Life Insurance in Favor of Charity; Replaces Lost Income for Charity
- Buy Real Estate; Remainder to Charity
- Buy Artwork, etc., Donate to Charity at Death

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4. Charity = 100% Beneficiary of IRA

- All to Charity
- No complications

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5. Fractional Amount to Charity

- 10% to Charity
- 90% to Daughter

- Consider Cashing Out Charity Early

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6. Pecuniary Amount to Charity

- \$10,000 to Charity
- Balance to Daughter

- Consider Cashing Out Charity Early

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7. Formula Amount to Charity

- 10% of my Gross Estate to Charity
- Balance to Daughter

- Consider Having the Formula Calculated by Someone other than the IRA Plan Administrator

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Medicaid Planning

- Why Worry About Medicaid?
 - Statistics
- What is Medicaid?
 - Needs based medical assistance
 - Different from Medicare
 - We will discuss only Medicaid for nursing home long term care

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Medicaid Planning

- Medicaid Qualification
 - Asset Requirements
 - \$2,000 or less in countable assets
 - Spousal resource allowance (community spouse)
 - Minimum \$20,328.00
 - Maximum \$101,640.00
 - IRA and Retirement assets – Countable
 - Principal Residence – Not countable
 - Michigan is currently the only state without an Estate Recovery statute

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Medicaid Planning

- Medicaid Qualification
 - Income Requirements
 - General Rule: As long as income is less than nursing home payment, you can qualify
 - Spousal income allowance (community Spouse)
 - Minimum - \$1,719.00 / month
 - Maximum - \$2,541.00 / month
 - Complicated formula to determine

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Medicaid Planning

- Estate Planning
 - Power of Attorney and Medical Care Power of Attorney are essential
 - Guardianship / Conservatorship issues
 - Transfer assets
 - May need to create new wills or trusts
 - Retitle assets
 - Government assistance

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Medicaid Planning

- Divestment
 - Gifting or transferring Countable assets for less than fair market value
 - Must be done 60 months before applying for Medicaid
 - 1 month penalty for every \$6,000 given away
 - Otherwise qualified
 - Other than to qualify for Medicaid

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Medicaid Planning

- Conclusion
 - Coordinate Estate Plan, Long Term Care Plan and Charitable Giving Plans
 - There are planning options for different size estates and situations

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