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IRA issues and the IRS

By Seymour Goldberg, CPA, MBA, JD

The IRS is involved in a major audit initiative regarding IRAs. This audit program was triggered as a result of government reports that indicated that there is a significant amount of noncompliance from taxpayers who make excess contributions to IRA accounts and from taxpayers who fail to receive required minimum distributions from IRA accounts.

On March 25, 2013 Long Island Congressman Steve Israel held a press conference calling for the IRS to reassess the steep penalties that taxpayers face for innocent mistakes involving their IRA accounts.

The Congressman also asked the IRS to properly educate senior citizens and the professionals who work with them so that IRA owners can avoid making costly mistakes in the first place. In January 2013, he sent a letter to the IRS asking the IRS to better educate the public on the rules involving IRAs.

Henry Montag, a Long Island certified financial planner who works with many senior citizens, brought the pending audit program involving IRA issues to the atten-

tion of the Congressman. It should be noted that Mr. Montag has participated in a number of CLE programs at the Suffolk Academy of Law as well as for other professional organizations.

Mr. Montag, Ron Fatoullah, an elder law attorney, and this writer participated in the press conference as well and echoed the same sentiments as the Congressman.

Subsequent to the press conference, the IRS informed the Congressman that there would be a significant education and outreach initiative by the IRS to educate seniors regarding the IRA rules and also what would happen if the rules are not followed. The Commissioner of the Wage and Investment Division of the IRS is in charge of this audit initiative.

I believe that the education of the public is important but that the rules are so complicated that professionals who work with senior citizens and their heirs should be aware of the many complex IRA rules. It is the professional adviser who should guide the IRA owners and their heirs through the maze of rules. It would likely be too much for most members of the public to handle these rules without professional guidance.

The fact is that there is a paucity of con-

tinuing education programs on the IRA issues by the state accounting societies and the state legal associations. The IRS plans to work with the American Institute of Certified Public Accountants and many other organizations to encourage both compliance and education on these rules.

Congressman Israel deserves a big thank you for his position on this major IRS audit program confronting senior citizens. Mr. Montag also deserves a thank you for bringing this vital issue to the attention of Congressman Steve Israel.

From the author's point of view, the IRS should address such issues as:

1. The IRA distribution rules that apply to the beneficiaries of inherited IRA's (Traditional and Roth).
2. The significant tax problems that may be triggered when an IRA owner selects a noncompliant trust as the beneficiary of an IRA.
3. The rules that apply when an IRA owner dies in pay status and does not receive his/her entire required minimum distribution for the year of death.
4. The tax preparer's responsibility under Circular 230 when the IRA owner or heirs violate the IRA distribution

rules or the post-death IRA distribution rules, as the case may be.

5. The need for professionals such as certified public accountants, enrolled agents and attorneys to know the IRA distribution rules (both lifetime and post-death).

As a practical matter, if the public is in the dark about the rules, then the professional adviser to the client must step up to the plate. It is not the investment adviser who is responsible for tax compliance, but it is in fact the client's tax return preparer.

These issues and many other technical rules will be discussed at a four-credit CLE/CPE program at the Suffolk Academy of Law on the morning of June 11, 2013. For more information or to enroll, call the Academy at 631-234-5588.

Note: Seymour Goldberg is a member of the IRS Long Island Tax Practitioners Liaison Committee and is a member of the Northeast Pension Liaison Group. He was formally associated with the Internal Revenue Service. He is the senior partner in the law firm of Goldberg & Goldberg, P.C. in Woodbury, New York

Parenting Coordination: Managing High-Conflict Families after a Divorce

By Neil S. Grossman, Ph.D.

Parenting Coordination: An Introduction
Parenting Coordination: Controversial Areas
(next issue)

Parenting Coordination: An Introduction

A workshop about parenting coordination, titled *Managing High-Conflict Families after a Divorce*, was sponsored by the Suffolk Academy of Law in March of 2013¹. The presentation provided important information and raised many questions. Issues discussed during the presentation will be addressed in two articles: the first will introduce the concept of parenting coordination; and the second will discuss some of the more controversial areas.

Parenting coordination has been defined as a child focused dispute-resolution process where mental health or family law professionals, with mediation training and experience, assist high-conflict parents to implement their parenting plan.² These professionals facilitate the resolution of the parent's disputes about their children in a timely manner, educate parents about children's needs, and, with prior approval of the parties and/or the court, make decisions within the scope of the court ordered or appointment contract.³

The practice of parenting coordination developed in several places in the United States simultaneously as a result of overburdened courts and parents who continually brought non-legal, child-related matters to court. In one of these locations, Northern

California, the judiciary prompted a group of judges, attorneys and mental health professionals to seek alternative ways of working with such parents.⁴ Parenting coordination was designed for post-judgment cases and focused on the implementation of the parenting plan. In some jurisdictions parenting coordination is also used pre-judgment if a parenting plan is in place. The goal of parenting coordination is to manage the high conflict when disputes are family or psychologically based rather than legally based.

Parenting Coordination is considered appropriate for high-conflict cases when: 1) parents have difficulty implementing an existing parenting plan; 2) mediation is not successful or is inappropriate; 3) parents need assistance making the small adjustments to their parenting plans necessitated by the evolving circumstances of their child(ren); 4) there is difficulty communicating about the child(ren); and 5) complex child-related issues require intensive case management. (Case management typically involves the coordination of services by providing structure and communication between various professionals. An example would be coordinating between treating professionals so they are not working at cross purposes, etc. Such an approach with high-conflict cases was upheld in the appellate decision, *Zafan v. Zafan*.⁵) Parenting coordinators use the skills of assessment, education, case management and conflict resolution. They attempt to educate parents about co-parenting, the psychological and developmental

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ACADEMY Calendar of Meetings & Seminars

Note: Programs, meetings, and events at the Suffolk County Bar Center (560 Wheeler Road, Hauppauge) unless otherwise indicated. Dates, times, and topics may be changed because of conditions beyond our control. CLE programs involve tuition fees; see the CLE Centerfold for course descriptions and registration details. For information, call 631-234-5588.

MAY

- 2 Thursday **Pre-Judgment Interest in Commercial Cases.** 12:30-2:10 p.m. Lunch from noon.
- 3 Friday Meeting of Academy Officers & Volunteers. 7:30-9:00 a.m. Breakfast buffet. All SCBA members welcome. (Last meeting of the 2012-2013 administrative year.)
- 7 Tuesday **East End: 2013 Elder Law Update.** 6:00-9:00 p.m. Bridgehampton National Bank. Sandwich supper from 5:30 p.m.
- 9 Thursday **Fixing Estate Planning Documents.** 2:00-5:30 p.m. Sign-in and lunch from 1:30 p.m.
- 15 Wednesday **Persuasive Writing & Oral Advocacy.** 6:00-9:00 p.m. Light supper from 5:30
- 15 Wednesday **East End: Landlord-Tenant Update.** Bridgehampton National Bank. Sandwich supper from 5:30 p.m.
- 16 Thursday **Evaluate Your Negligence Case.** 6:00-9:00 p.m. Light supper from 5:30
- 17 Friday **Open Meeting of SCBA Labor & Employment Law Committee: Federal Practice—Using Technology at Trial.** 8 a.m. in the Board Room
- 20 Monday **Representing the Adolescent Brain in Adult Court: TASTE Program.** At District Court. Details TBA
- 29 Wednesday **Use of Personal Mobile Devices in the Workplace.** 12:30-2:10 p.m. Lunch from noon.
- 29 Wednesday **Family Court Services.** 6:00-9:00 p.m. Light supper from 5:30

JUNE

- 5 Wednesday **Settling Matters in Surrogate's Court.** 6:00-9:00 p.m. Light supper from 5:30
- 7 Friday **Re-scheduled: Law in the Workplace Conference.** 8:30 a.m.-4:00 p.m. SCBA Center. Lunch and continental breakfast.
- 11 Tuesday **IRA Compliance Issues Including IRA Trust Violations.** 9:00 a.m.-12:45 p.m. Breakfast buffet from 8:30 a.m.
- 14 Friday Meeting of Academy Officers & Volunteers. 7:30-9:00 a.m. Breakfast buffet. All SCBA members welcome. (First meeting of the new administrative year.)
- 18 Tuesday **Sales & Use Tax: What Lawyers Need to Know.** 12:30-2:10 p.m. Lunch from noon.
- 20 Thursday **East End: New DWI Regulations** (with Peter Gerstenzang). Bridgehampton National Bank. 6:00-9:00 p.m. Light supper from 5:30 p.m.

Check On-Line Calendar (www.scba.org) for additions, deletions and changes.

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