

Attorney Timothy P. Crawford, CPA, CELA*, CAP**
wanted to share this information with you.

IRA RESCUE

GREATER MILWAUKEE AREA OFFICES IN BROOKFIELD, GLENDALE, MILWAUKEE, OAK CREEK & RACINE

Your Asset Protection Law Firm

840 Lake Avenue, Suite 200
Racine, WI 53403
(262) 634-6659

E-mail: tpc@execpc.com
Website: www.TpcLaw.com

Tax-conscious individuals have often considered Qualified Plans (pension, profit sharing, 401k, and SIMPLE plans) and individual retirement accounts (IRA) to be an important part of their preparations for a more comfortable and secure retirement. Some reasons why taxpayers find qualified plans attractive are the following:

- Tax deductions for contributions made;
- Tax deferred accumulation until distributions are received; and
- The belief that tax rates will be lower during their retirement years.

As some qualified plan or IRA owners become more successful and affluent, however, they discover that they can comfortably meet their retirement needs by using assets other than the existing qualified plan or IRA. In that event, it becomes their intent to retain and preserve as much of their qualified plan/IRA money to pass on to heirs.

The Internal Revenue Code works against them (and their heirs) because, unlike most other assets, qualified plan and IRA assets do not receive a “step-up” in basis at death. Therefore, qualified plan and IRA assets that are not consumed during the original owner’s life can easily become one of the most heavily taxed assets he or she owns if held until death. This is because of the Tax Collector’s “Double Play”:

- **Income Taxes** – The entire value of the Qualified Plan or IRA is taxable as ordinary income to either the beneficiary of the Qualified Plan/IRA or to the owner’s estate, depending on who receives it.
- **Estate Taxes** – The Qualified Plan’s entire fair market value is included in the owner’s taxable estate and may be subject to federal estate tax.

Thus, without further preparation, the Internal Revenue Service (IRS) is likely to receive a substantial portion of your qualified plan or IRA assets, and may in fact become the biggest recipient of your retirement “nest egg.”

Qualified plan and IRA assets that are not needed for retirement income may be an ideal candidate for strategic repositioning of assets in a strategy called “IRA Rescue.” This technique can:

- Minimize the impact of federal estate and income taxes on what is left to loved ones; and
- Maximize the ultimate value of what your heirs receive.

To illustrate the benefits of the IRA Rescue strategy, let's look at John and Mary, ages 76 and 72. Today they have total assets of \$2,500,000 consisting of various assets including John's IRA with a value of \$500,000. With John's pension, Social Security benefits, and income from investments, they do not need the \$500,000 in IRA money in order to be financially comfortable. Their wish is to do all they can upon their deaths for their children and grandchildren. Here is how the IRA Rescue Strategy will work for them:

Step One: John uses his \$500,000 IRA account to acquire a Single Premium Immediate Annuity (SPIA). This step does not trigger any tax consequences because the SPIA will continue to be IRA qualified. The SPIA contract will guarantee the sum of \$36,749 per year payable every year for the remainder of John's and Mary's lifetimes. Based on their 33% federal and state income tax bracket, the after-tax income from the SPIA is \$24,622 per year for as long as either John or Mary lives.

Step Two: John and Mary will gift the \$24,622 per year to an Irrevocable Life Insurance Trust (ILIT), which will use these funds to purchase a Second-To-Die life insurance policy that insures John and Mary. When both spouses are deceased, the policy will pay \$1,306,000 to the ILIT. There is no income, capital gains, gift or estate tax due on the insurance proceeds. The trust's beneficiaries are John and Mary's children. The trust language will make this money exempt from the claims of their children's creditors or their children's spouses in the event of divorce.

Let's look at the difference the IRA Rescue Strategy makes. Assume John and Mary have both died in 15 years. If they have left their present situation unchanged, their children stand to receive \$569,000, after the payment of income taxes, from the value of the IRA at death. When we compare this to the \$1,306,000 that's delivered tax free by the life insurance as part of the IRA Rescue Strategy, we see that there is an additional benefit to John and Mary's children of \$737,000. This represents an improvement to their children of \$130% over their present situation.

In conclusion, for IRA or qualified plan funds that are unneeded to maintain lifestyle, you can use the IRA Rescue Strategy to dramatically amplify the legacy that is passed on to loved ones.

**“Those Who Plan Ahead Win.
Those Who Don't Plan Ahead Lose.”**

This article is for informational purpose only and is not intended as legal advice. It is recommended that you call Timothy P. Crawford for a free conference to discuss your situation in more detail. Attorney Crawford can be reached at 1-262-634-6659. Please refer to this article when you call.

*Attorney Timothy P. Crawford is a Nationally Board Certified Elder Law Attorney (CELA). He has been Board Certified by the National Elder Law Foundation which has been approved as the Sole Certifying Organization for Elder Law Attorneys by the American Bar Association.

**Timothy P. Crawford was invited to join the Council of Advanced Practitioners (CAP) of the National Academy of Elder Law Attorneys (NAELA) in August of 2005. CAP is a small group of premier elder law attorneys, all of whom have been members of NAELA for at least 10 years, are certified as elder law attorneys by the National Elder Law Foundation, and are AV rated by Martindale Hubbell, a service that provides an independent rating of the quality of attorneys, as one of the top attorneys in the nation.

Attorney Timothy P. Crawford has been selected as a **Fellow** of NAELA. **Fellow** is the highest honor bestowed by the Academy. Selection as a **Fellow** signifies that his peers recognize the lawyer as a model for others and as an exceptional lawyer and leader.

Attorney Timothy P. Crawford has a superb rating of 10 out of 10 with A V V O.

A V V O has awarded to Attorney Timothy P. Crawford the A V V O Client's Choice Award.

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"A majority of text has come from an article prepared by Attorney Andy Hook, friend of Attorney Timothy P. Crawford, is used here with permission."