

# **IRAs are Different**

**IRAs...The Black Hole of Estate Planning  
IRAs are different than all other assets**

**Estate Planning is different for IRAs**

**IRAs are distributed differently than all other assets  
both during life and after death**

## **Here's why:**

IRAs pass by contract (generally not by will)

IRAs have required minimum distributions (RMDs)

IRAs have their own set of complex distribution rules both during life and after death

IRA distributions can incur tax penalties

IRAs are highly taxed upon death or withdrawal

IRAs are subject to double tax at death (estate and income tax, plus state versions of those taxes) in addition to IRS penalties that can apply to withdrawals made by the owner

IRAs receive NO step-up in basis

IRA investment gains are taxed as ordinary income, not at capital gains tax rates

IRA investment gains are not subject to the 3.8% investment income surtax

IRAs cannot be gifted or transferred during lifetime

Exception: a direct gift to a charity (a qualified charitable distribution) under the Pension Protection Act of 2006 - this provision was extended through 2013 by various tax acts. It is not yet extended through 2014

Exception: a court ordered transfer that is part of a divorce agreement

IRAs cannot be transferred to trusts during lifetime or after death

IRAs cannot change ownership during lifetime - this would trigger an immediate and complete distribution and end the tax shelter

IRAs cannot be owned jointly, like other property can be owned, even in community property states

IRA equity cannot be tapped the way home equity can be tapped without triggering tax and potential IRS penalties

The choice of IRA beneficiary determines the ultimate future potential value of that IRA to beneficiaries

Trusts named as IRA beneficiaries must qualify under specific IRS rules so that trust beneficiaries are eligible for stretch IRA tax benefits. There are no separate account rules for trusts named as IRA beneficiaries

IRA beneficiaries may qualify for special tax breaks that are often missed

IRAs have no principal and income concept. The entire IRA (principal and income) may be distributed to the income beneficiary of a trust leaving little or nothing to remainder trust beneficiaries. IRAs in a trust are all principal because under trust law, IRD (income in respect of a decedent) is principal in a trust and IRAs are IRD

IRAs require their own estate plans and then those estate plans must be integrated within the overall estate plan that includes all other assets