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**RETIREMENT PLANNING:  
*NEW* DISTRIBUTION OPTIONS**

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**RELEVANCE**

- Retirement Plan Assets Are Becoming a Larger Portion of Estates
- Difficult to Plan for Retirement Plan Assets
- Under Recent Law Changes the Available Distribution Options Have Changed, Creating New Planning Opportunities

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**Overview – Qualified Plans**

- Favorable Tax Treatment
  - deductible employer contributions
  - earnings accrue on a tax-exempt basis
  - distributions are taxable when received
- Forms of Qualified Plans
  - defined contribution plans
  - defined benefit plans

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## Overview - IRAs

- Individual Retirement Plans (IRAs) Are Tax Favored Accounts under Section 408
  - pre-tax contributions are deductible
  - earnings accrue on tax-exempt basis
  - distributions, other than from Roth IRAs, are taxable when received
  - qualified distributions from a Roth IRA
- IRAs Can Be Funded in Four Ways

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## Overview – Other Plans

- There Are Several Retirement Plans That Are Not Qualified and Not IRAs
  - section 403(b) plans
  - section 457(b) governmental plans
  - section 457(b) tax-exempt employer plans
  - SIMPLE IRAs
- Tax Treatment Is Similar to Qualified Plans

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## Overview – Forms of Benefit

- DC Plans and IRAs – lump sums and possibly installments
- DB Plans – annuity forms of benefit
  - QJSA for married participants and single life annuity for unmarried participants
  - election to waive QJSA [s allowed with spousal consent
  - annuity benefits are generally actuarial equivalents, i.e., have same actuarial value  
(Always check plan document or SPD.)

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## Overview – Key Tax Concepts

- Retirement Plan Benefits Have Built-In Tax Deferrals Which Should Be Maximized
- Retirement Plan Benefits Are IRD Which Can Be Subject to Both Income and Estate Taxes. There Is No Step-Up in Basis

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## Timing and Choice of Benefits

- Qualified Plans – no distributions before earliest of a severance from employment, death or reaching the normal retirement date
- IRAs – amounts can be paid after age 59 1/2
- In-Service Distributions from Qualified Plans
- 10% Early Distribution Excise Tax Imposed on Amounts Paid Prior to Age 59 1/2 (With Certain Enumerated Exceptions)

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## Timing and Choice of Benefits

- Qualified Plans – no force out of benefits allowed by employer, except for “small” amounts
- Participants Are Generally Allowed to Elect the Form and Timing of Their Benefits
- Minimum Required Distribution Rules Limit Extent to Which Payments Can Be Deferred

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### Required Annuity Benefits

- DB and Money Purchase Pension Plans
  - QJSA
  - waiver and election period
- IRAs – none

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### Minimum Required Distributions

- Intended to Limit Deferral of Taxation of Plan Benefits
- Apply to All Qualified Plans, IRAs and Other Tax Favored Retirement Plans
- Required Beginning Date (RBD)
  - April 1 following end of year in which participant attains age 70 1/2

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### Minimum Required Distributions

- exempt government and church plans – April 1 following end of year in which retirement occurs, if later than age 70 1/2
- a participant who is not a 5% shareholder of employer maintaining a qualified plan can also postpone distribution until April 1 following end of year in which retirement occurs, if later than age 70 1/2

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## Minimum Required Distributions

- Required Distribution Amount – individual account plans
  - account balance at last valuation date preceding distribution year
  - distribution period is determined using life expectancy found in Uniform Life Table
  - exception applies where a spouse is more than 10 years younger than participant

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## Minimum Required Distributions

- Required Distribution Amount - DB plans
  - annuity payments generally satisfy minimum distribution requirements
  - any non-annuity form of payment must satisfy rules applicable to individual account plans
- Death before RBD
  - participant's entire interest must be paid under either 5 year rule or life expectancy rule
  - plan should specify or allow for election

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## Minimum Required Distributions

- definition of designated beneficiary
- trust can qualify as designated beneficiary
- commencement date
- determination of distribution period
- Death following RBD
  - in year of death final distribution must be made to decedent, if not previously made
  - in subsequent years distribution amount and period will depend upon nature of beneficiary

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## Multiple Plans

- Multiple Qualified Plans Are Treated Separately in Determining Required Distributions
- Multiple IRAs Are Aggregated in Determining Required Distributions, But Payment May Be Made from Any IRA
- Multiple 403(b) Plans Are Treated the Same as Multiple IRAs.

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## Rollovers

- Definition – direct or indirect transfer of a benefit distribution from one retirement vehicle to another
- Lifetime rollovers
- Post-death spousal rollovers
- Post-death non-spousal rollovers

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## Post-Mortem Planning

- Cash Out an Undesirable Beneficiary
- Have an Undesirable Beneficiary Disclaim
- Create Separate Accounts

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## Choice of Beneficiary

- There Are Several Potential Beneficiaries for Retirement Benefits
  - spouse
  - QTIP trust or another form of trust
  - children, grandchildren or other individuals
  - estate
  - charity

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## Changes Made By the PPA

- PPA Made Several Changes to the Distribution Provisions Applicable to Qualified Plans
  - new interest rate for calculating lump sums
  - rollovers made available to non-spouses
  - hardship distributions made available to beneficiaries

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## Roth IRAs

- Lifetime Distributions – tax-free if made after account holder attains age 59 ½ and has held a Roth IRA for at least 5 years
- Post-Death Distributions
  - spouse can treat Roth IRA as his or her own and avoid required distributions
  - non-spouse must satisfy rules for required distributions

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## Planning Techniques

- Evaluating and Coordinating Distribution Options
- Selecting a Distribution Option and a Beneficiary

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