

Summer

July 2020

North Knowing

Courtesy of Wilson Law Group, LLC

RETIREMENT ACCOUNT BASICS FOR 2020

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The COVID-19 pandemic has led to volatile markets, and your retirement account may have a much smaller balance than only a few short months ago. In response to the economic fallout stemming from the pandemic, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which was signed into law on March 27, 2020. The CARES Act was primarily aimed at providing quick and substantial relief to individuals and businesses affected by the economic shutdown in response to the spread of COVID-19. Several of the relief measures can provide significant peace of mind, as they provide you with the option to access some of the funds in your retirement accounts without the usual penalties if you have been negatively affected by COVID-19. In addition, the new legislation contains other provisions that may lower your tax bill for 2020.

hours (for business owners) or an inability to work due to lack of child care related to coronavirus. The distributions will be subject to income tax, but if you qualify, you may opt to spread the payments evenly over three years rather than having to pay it all in 2020. You may also recontribute the distributed funds to the retirement plan or another retirement plan (with an exception for 457 plan distributions), by a single rollover or multiple rollovers, within three years of the date of the distribution regardless of any contribution limit established by the plan.

Loans. During the 180-day period from the date of enactment of the CARES Act, plans can increase their loan limits to the lesser of \$100,000 or 100% of the participant's vested account balance for qualified individuals, up from the previous limits of \$50,000 or 50% (note that loans are not permitted from IRAs) for participants adversely affected by coronavirus as discussed above. In addition, qualified individuals with an existing loan from a retirement plan that is due to be repaid by December 31, 2020, can delay repayment by one year. Later repayments will be adjusted to reflect the delayed due date plus interest accruing during the delay. The one-year period of delay in repayment is disregarded in determining the maximum five-year loan period.

Required Minimum Distributions. If you are a participant in a 401(k), 403(a) or (b) plan, a 457, or an IRA (not a defined benefit plan), the CARES Act waives required minimum distributions (RMDs) for the calendar year 2020, meaning that if you do not need the distribution, you can leave the funds in your account, avoiding any income tax that would be due if you took a distribution. The CARES Act waiver also applies to RMDs for account owners who reached age 70 ½ in 2019 but deferred taking an RMD in 2019 until April 1, 2020. Normally, account owners in this category would also have to take a second RMD for 2020 by December 31, 2020, but this RMD is waived as well. Under the previous tax law, an

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Early Distributions. Under the CARES Act, the 10% early distribution penalty tax that would otherwise apply to the majority of distributions made before a participant turns age 59 ½ is waived for "coronavirus-related distributions" (CRD) made at any time during 2020 from qualified retirement plans, such as IRAs, 401(k)s, 403(a) and (b) plans, and 457 plans, for distributions of up to \$100,000.

A CRD is a distribution from an eligible retirement plan made during 2020 to a qualifying individual who is diagnosed with coronavirus, or whose spouse or dependent has been diagnosed with it, or who has experienced adverse financial consequences from a coronavirus-related quarantine, furlough, layoff, work reduction, business closure or reduction in

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RMD you have taken cannot be rolled back into an IRA unless this is done within 60 days after the distribution, and a rollover from one IRA to another IRA (or from one Roth IRA to another Roth IRA) can be done only one time per year (365 days). Under the CARES Act, if you had already taken an RMD prior to the passage of the new law, you are allowed to roll it over into the original account within 60 days, and this time limit was extended by IRS Notice 2020-23 for distributions—including RMDs—taken between February 1st and May 15th if the rollover occurs by July 15th. If you took an RMD in January, it may not be returned unless the IRS provides additional relief.

Although the once-per-year IRA rollover rule is still in effect, if you have already used your IRA rollover, you are permitted to do a rollover to a non-IRA retirement account such as a 401(k). The once-per-year rule does not apply to RMDs taken from a 401(k) or to Roth conversions.

The waiver is also applicable to designated beneficiaries who have inherited retirement accounts. Further, 2020 is not counted for purposes of the post-death payout “five-year rule” applicable to non-designated beneficiaries when the owner died before his or her own required beginning date.

However, the CARES Act has no impact on the new 10-year payout rule required by the SECURE Act, which precludes most non-spousal beneficiaries from stretching their distributions over their lifetime, as 2020 is the first year that non-eligible designated beneficiaries would be subject to that rule when they inherit a retirement account. Because the 10-year payout does not start until the year after the year in which the account owner died, 2021 counts as year one rather than 2020.



Note: The CARES Act does not affect your ability, if you are 70 ½ years old or older, to make an annual qualified charitable distribution (QCD) of up to \$100,000 from your IRA directly to a qualified charity in 2020 without counting the distribution as taxable income. The suspension of RMDs may reduce your incentive for doing so, however, because the distribution will not offset the RMD, thus enabling you to avoid taxable income. In any case, a QCD will reduce your taxable IRA balance, so it will still provide a tax benefit to you. Further, under the CARES Act, for 2020, individuals who itemize their deductions can elect to deduct up to 100% (up from 60%) of their adjusted gross income for cash charitable contributions, so if you choose to take a cash distribution from your IRA and contribute that cash to a qualified charity, you can potentially completely offset the tax attributable to the distribution using the charitable deduction.



Review beneficiary designations. Now is also a great time to reach out to your financial advisor to review your beneficiary designations. As you know, life circumstances can change very quickly. If a marriage, death, or divorce has occurred since you last reviewed your beneficiary designations, you should give some thought to whether they are still consistent with your estate planning objectives. It would be unfortunate if your retirement funds went to an ex-spouse or someone else you no longer want to benefit. In addition, alternate beneficiaries should be named in case the primary beneficiary passes away before inheriting the account.

If a trust is the beneficiary of your retirement account, it is crucial for us to meet to review your estate plan. Before the SECURE Act was passed, we may have included “conduit” provisions in your trust so that the trust would qualify as a designated beneficiary of a retirement account, allowing the RMDs to pass through to the trust’s primary beneficiary for their individual life expectancy. Now, conduit trusts are ineffective after ten years, at which point the retirement account balances must be paid directly to the trust’s beneficiaries, which may substantially increase the income taxes they owe and make the entire amount available to claims by their creditors or divorcing spouses. Needless to say, if your estate plan includes this type of trust, it may no longer achieve your goals.

We Can Help

We have all been affected by COVID-19 in one way or another, but we want to let you know that we are available to help. For those of you in our RWay Program, we will be discussing these new rules and how they affect your plan during your next RWay meeting. For those of you who are not part of the RWay Program, please contact us to schedule an appointment for a review of your plan. A periodic estate plan review is critical to ensure that your plan still meets your goals, especially in light of all the recent, sweeping changes in the law. Our goal is to make sure that you have the best estate plan in place so you can gain peace of mind from knowing that you and your loved ones are secure, both now and in the future. We are happy to meet with you by video conference or by phone if you prefer. Please let us know!

NO-CONTEST CLAUSES

Does No-Contest Really Mean No Contest?

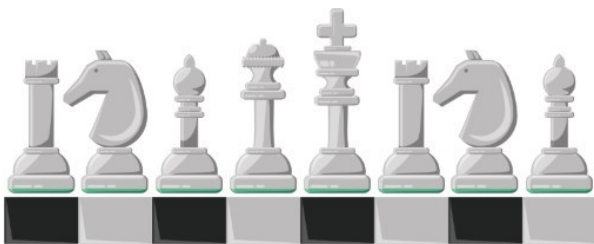
We live in a litigious society. Unfortunately, even family members sometimes file lawsuits because they are dissatisfied with what their parents or loved ones leave them in a will or trust. Some are so disgruntled that they decide to contest or challenge the validity of a will or trust, which can delay its administration for years and result in thousands of dollars in legal fees. If you are concerned that any of your beneficiaries may seek to challenge your will or trust, a no-contest clause might be one method you can use to discourage them from pursuing this course of action.

What Is a No-Contest Clause?

A typical no-contest clause provides that a beneficiary who disputes the validity of a will or trust will forfeit any inheritance or benefit they otherwise would have received according to its terms. It will not prevent someone who is not a beneficiary named in your will or trust from contesting it though.

Are They Enforceable?

State law varies regarding the enforceability of no-contest clauses. They are unenforceable in only one state: Florida. In other states, no-contest clauses are enforceable unless “probable cause” exists to institute a lawsuit challenging the validity of the will or trust, the contest is based on “good faith,” or the contest is based on both probable cause and good faith. Still others enforce no-contest clauses without regard to probable cause or good faith.



What Legal Actions Will Be Considered a Contest?

A lawsuit that challenges the validity of a will or trust, or some of its terms, based on allegations of forgery, lack of due execution, lack of capacity, or menace, duress, fraud, or undue influence is typically considered to be a contest. However, under some circumstances, a will or trust could be considered to have been contested even if the beneficiary does not assert that it is invalid, but instead files a lawsuit that affects or changes the way money or property is distributed or prevents the will or trust from being administered according to its terms, for example, by challenging the method by which property is transferred into a trust. Some courts have found that a no-contest clause has been violated even if a lawsuit contesting a will or trust is later withdrawn.

What Legal Actions Will Not Be Considered a Contest?

Although state law varies, certain types of lawsuits are typically not considered to be a contest of a will or trust. Lawsuits brought to ask the court to interpret or construe the language of the will or trust or to determine whether a personal representative or trustee has acted consistently with the terms of the will or trust are generally not considered to be a contest. In addition, in some states, beneficiaries are allowed to first ask the court to determine whether a particular challenge would trigger the no-contest clause, and those actions are typically not considered a contest that would result in a forfeiture of an inheritance for the beneficiary who filed the action. For example, in a case recently decided by the Virginia Supreme Court, *Hunter v. Hunter*, trust beneficiaries that filed an alternative pleading initially seeking a declaratory judgment as to whether a proposed claim would trigger a no-contest clause were held not to have triggered the clause by filing the declaratory judgment action.

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What Are the Pros and Cons of No-Contest Clauses?

Pros

- ◆ Honors your right to give your property to the parties you have chosen in the way you want, as expressed in your will or trust
- ◆ Discourages baseless challenges to a will or trust by a disgruntled beneficiary
- ◆ Discourages meritless lawsuits aimed at forcing a settlement by a dissatisfied beneficiary
- ◆ Avoids lengthy and expensive litigation that will deplete your estate and delay administration

Cons

- ◆ Causes a beneficiary to suffer a forfeiture of his or her inheritance for enforcing his or her right to challenge the will's validity
- ◆ Impedes the court's ability to determine if the will or trust is valid and ensure that it was not executed as a result of unlawful means, for example, where an unscrupulous child convinces an elderly parent with dementia to sign a new will beneficial to that child shortly before the parent's death



All classes are offered exclusively to our RWay members and their guests. Seating is limited, so please make your reservation as early as possible.

Wilson Law Group combines our most valued educational workshops into three convenient half-day events!

Where:

Clarion Suites
2110 Rimrock Road
Madison, WI 53713

When:

Saturday, September 26, 2020
Saturday, January 23, 2021
Saturday, May 15, 2021

Three Ways to Register:

Phone

608-833-4001

Email

mail@wilsonlawgroup.com

Website

wilsonlawgroup.com

Symposium I
Saturday, September 26, 2020

8:30 a.m.	8:30 a.m.
Trustee Training: <i>Trust Process</i>	Using Trusts to Protect Your Assets from Long-Term Care Costs
Break	
9:45 a.m.	9:45 a.m.
Trustee Training: <i>Administration Process</i>	Beyond Your Legal Documents
Break	
11:00 a.m.	11:00 a.m.
Funding Your Trust	Focus on Health & Wellness

Symposium II
Saturday, January 23, 2021

8:30 a.m.	8:30 a.m.
LegalVault	Income Taxes for Trusts
Break	
9:45 a.m.	9:45 a.m.
Trustee Training: <i>Trust Process</i>	Protecting Your Identity & Your Credit
Break	
11:00 a.m.	11:00 a.m.
Trustee Training: <i>Administration Process</i>	Travel Today: Tips & Safety

Symposium III
Saturday, May 15, 2021

8:30 a.m.	8:30 a.m.
Trustee Training: <i>Trust Process</i>	Current Events in Estate Planning
Break	
9:45 a.m.	9:45 a.m.
Trustee Training: <i>Administration Process</i>	Your Vacation Home
Break	
11:00 a.m.	11:00 a.m.
Have You Done Your Homework?	Leaving a Legacy

All classes are presented by WLG unless otherwise indicated

Trustee Training: *The Trust Process*

This program will provide attendees with an understanding of estate planning concepts, why a trust is useful in comprehensive planning, and an introduction to the trust administration process. Attendance is a must for every Trustee and successor Trustee. A Trustee Handbook will be included. This program is a precursor for the Trustee Training (The Administration Process) program.

Trustee Training: *The Administrative Process*

The Trust Administration workshop provides Trustees with a detailed description of the decisions to be made and the tasks to be completed following the death of a Trustmaker. These include valuing assets, administering retirement plans and annuities, dividing and distributing trust assets, and preparing estate and fiduciary income tax returns. It is important to know how to handle these responsibilities before the need exists. Prior attendance at the Trustee Training (The Trust Process) program is highly encouraged.

Funding Your Trust

Funding is a critical function of maintaining your trust. Even though your current assets are coordinated with your trust, it is your responsibility to make sure that all assets acquired in the future are also coordinated with your trust. This workshop will help you understand how to properly maintain your trust funding. It also provides essential information to correctly fund your trust, so be sure to sign up if you have not yet taken the class.

LegalVault

This workshop is for anyone who would like to learn more about the benefits and functions of their LegalVault account. LegalVault enables you to keep, track, and review your documents outside of your regular estate planning meetings, control access to your estate planning documents, and add additional documents to your vault that requires privacy. LegalVault also allows healthcare providers to have access to your medical directives at a moment's notice.

Current Events in Estate Planning

As we all know, estate planning is essential to making sure your assets and values pass on to future generations in the way that you want. This program is designed to keep you up to date with how changing laws and court decisions can impact your existing planning. We will discuss the most important changes that can have an impact in your plan.

Using Trusts to Protect Your Assets from Long Term Care Costs

The cost of long-term care is very high and increases every year, which leads to many people exhausting their entire life savings paying for it. Using an Irrevocable Trust may protect your assets from the costs of long-term care for those who cannot qualify for other planning alternatives. This program will review the pros and cons of Irrevocable Trusts in long-term care planning.

Focus On: Health & Wellness *Presented by Eric Foxman*

Wellness is more than avoiding sickness and injury. It is a process of self-awareness, conscious change, and making thoughtful decisions to improve oneself. This course will explore how proven, science-based methods like exercise and smart food choices can ensure you live a healthy and fulfilling life...and have fun while doing it!

Beyond Your Legal Documents

After you sign your trust documents and even after you have done your "homework," there are little things you can do to make sure your planning works as smoothly as possible. This program will dive deep into best practices for health care documents, what information should be shared with beneficiaries and successor trustees, ways to organize certain information, and why the documents need a plan for implementation before something happens in your life.

Income Taxes for Trusts

Income taxes are often a secondary discussion topic during the course of planning an estate. However, basic knowledge of trust and estate income tax rules is essential to avoiding common mistakes that can cost thousands of dollars. This workshop will provide a practical overview of the issues that arise in connection with the income taxation of trusts and estates.

Leaving a Legacy *Presented by Anita Hecht*

We often pay more attention to passing on our possessions than we do to passing on our life stories. Consider, however, that one of the greatest gifts you can give your current and future loved ones is the story of your life.

Anita Hecht - founder of Life History Services and professional interviewer for Steven Spielberg's Shoah Foundation, as well as numerous oral history projects - will lead us in exploring the value and process of capturing and preserving your most important legacy.

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Protecting your Identity & Your Credit *Presented by an Industry Professional*

Identity theft is on the rise, and it has become a very real issue for Americans. Even large corporations like Target and Sony have had massive data breaches. How can you protect yourself? This workshop will review methods to help you safeguard your information against identity theft, as well as help you defend yourself in the event that your information is ever compromised.

Have You Done Your Homework?

Not only is your trust binder full of important legal documents, it also contains documents to guide your family in implementing your plan. This workshop offers a guided session to completing your Memorandum for Distribution of Personal Property, Remembrance and Services Memorandum, Child Care Exhibit, Key Information section, and other documents that you may customize. Please bring your trust binder(s) and we will identify your “homework” and provide direction on completing it.

Travel Today: Tips and Safety *Presented by an Industry Professional*

An expert in the field of travel will share key tips on how to plan for and enjoy a safe trip. Topics to be covered include: history of traveling and what has changed; tips for traveling; preparing to fly; special considerations when traveling abroad; most common travel mistakes; top 10 reasons to work with a travel agent; what to keep in mind when using an online travel service; packing/luggage considerations; and concerns regarding COVID-19.

Your Vacation Home

Whether it's a small cabin “up north” or a Florida winter getaway, a vacation home can be a wonderful place for families to gather and create memories. Unfortunately, property or items that create the most joyful memories in life often become painful points of friction without proper planning. Topics we will cover include title issues, renting, gifting, location, and divorce.

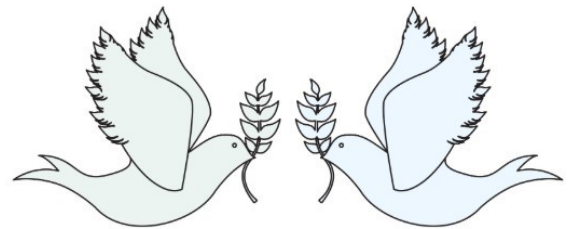


What Are the Possible Outcomes of a Successful Will or Trust Contest?

The outcome of a will or trust contest depends upon several factors. If a will or trust is declared invalid and there is no earlier will, then the deceased person's money and property will be distributed according to state intestacy law, which specifies how it should be divided up and distributed when there is no will. When there is an earlier will, that will could take the place of a later one that is declared invalid. If only part of the will or trust is declared invalid, then the rest of the instrument will be upheld: The intestacy law will apply only to the part of your estate not addressed in the valid portion.

Let Us Help You Create an Estate Plan That Keeps the Peace

If you see trouble brewing and are concerned that family members could contest your will or trust, a no-contest clause is one tool that could discourage dissatisfied beneficiaries from seeking to have it declared invalid. Another possibility that could forestall a will or trust contest is to conduct a family meeting during which you can explain your reasons for distributing your money and property in the way you have. Allow us to help you create the best estate plan for your unique circumstances and to employ all available tools to decrease possible conflict within the family. Give us a call to set up a meeting: We are happy to meet with you over the phone or via video conference if you prefer.



Watch **R**Way
Workshops Online

Just like the Spring 2020 Symposium, Fall's Symposium will also be available for you to watch online. Check out our growing library of courses by following these steps:

1. Go to wilsonlawgroup.com
2. Click on Free Workshops
3. Click on Log in to Watch RWay Symposium Workshops
4. Enter password Sinatra2013



This Quarter in History

July 2, 1908 - The first African American on the U.S. Supreme Court, Thurgood Marshall (1908-1993) was born in Baltimore, MD. Nominated by President Johnson, he began his 24-year career on the High Court in 1967.



July 6, 1885 - Louis Pasteur gave the first successful anti-rabies inoculation to a boy who had been bitten by an infected dog.

August 18, 1920 - Women were granted the right to vote with the ratification of the 19th Amendment to the U.S. Constitution.



August 28, 1963 - The March On Washington occurred as over 250,000 people attended a Civil Rights rally in Washington, D.C., at which Rev. Dr. Martin Luther King, Jr. made his now-famous *I Have a Dream* speech.

September 2, 1752 - The British ended their use of the Julian calendar, switching instead to the Gregorian calendar, resulting in a major adjustment as Wednesday, September 2, was followed by Thursday, September 14. The correction resulted in rioting by people who felt cheated and demanded the missing 11 days back.



September 16, 1620 - The *Mayflower* ship departed from England, bound for America with 102 passengers and a small crew. The Pilgrims disembarked at Plymouth on December 26th.

September 20, 1973 - The much-hyped "Battle of the Sexes" took place in the Houston Astrodome, as tennis player and women's rights activist Billie Jean King defeated self-styled male chauvinist Bobby Riggs in three straight sets.

COVID-19

SIX WAYS YOU CAN HELP THE ELDERLY AND/OR PEOPLE WITH UNDERLYING CONDITIONS

- 01** Check on them frequently via phone and videoconferencing
- 02** If you visit them, maintain a safe distance and avoid handshakes and hugs
- 03** Pick up groceries, supplies, and prescriptions for them
- 04** Help them connect with doctors, neighbors, family, and friends
- 05** Encourage them to maintain a healthy lifestyle
- 06** Talk and listen to them. Help them cope with the stress through kindness and empathy



**MARK YOUR
CALENDARS**



JULY 31



AUGUST 7



AUGUST 21

Senior Citizen's Day



SEPTEMBER 7



SEPTEMBER 18

