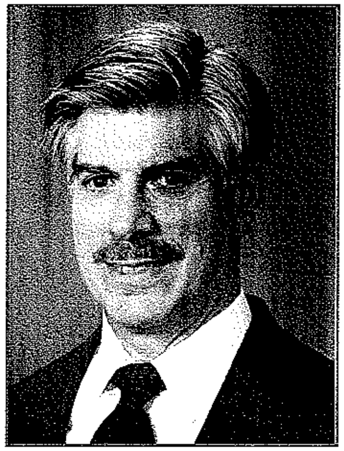
A STEP AHEAD

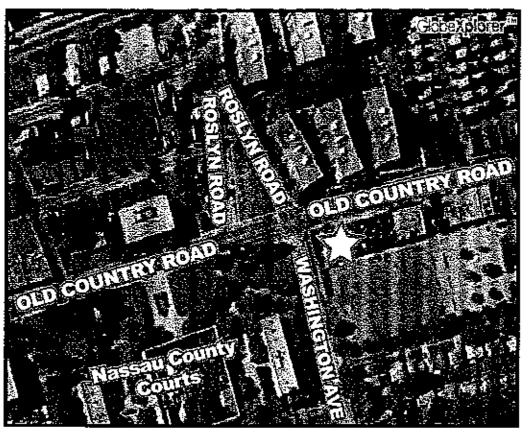


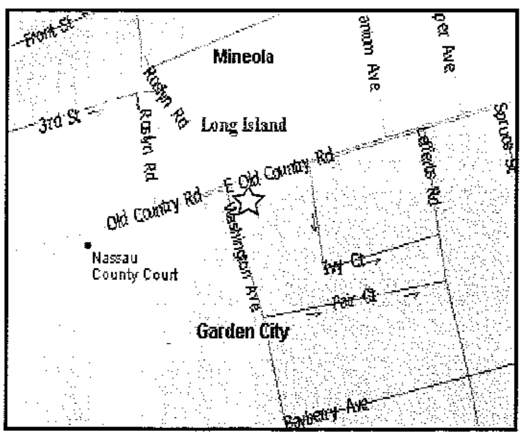
BERWITZ & DITATA LLP HAS MOVED

We are pleased to announce that Berwitz & DiTata LLP has moved! Our new offices are located at 310 Old Country Road, Suite 101, Garden City, New York 11530. That is on the southeast corner of Old Country Road where it intersects with Washington Avenue and Roslyn Road. Our telephone and facsimile numbers and email addresses remain unchanged.

To better accommodate our clients, our new space is much greater and offers great convenience to highways and the Long Island Rail Road. The building is wheelchair accessible, a promise that was never fulfilled in our old offices, and we are on the first floor adjacent to the entrance. Abundant parking is quite convenient and immediately behind the building. If you expect to meet with us for longer than an hour, we will provide you with a pass for your windshield that enables you to park all day. Gone are the days when our clients had to keep an eye on the clock to avoid parking tickets!

Please note our new address in your address book or contact manager. Also, clients may want to record it in their estate planning binders. Better yet, please bring your binder with you to your next appointment and we will be happy to update it.





In This Issue...

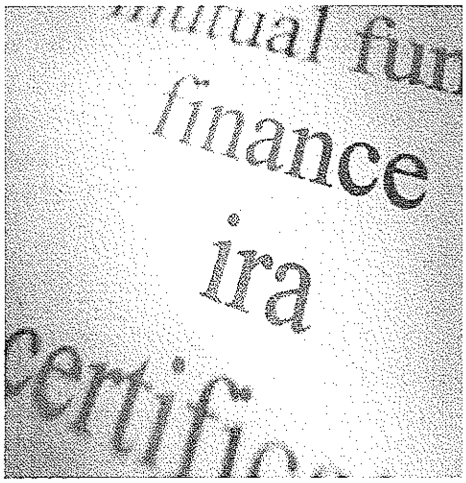
Berwitz & DiTata LLP

Winter 2006 Volume 3, Issue 1

MAXIMIZING BENEFITS WITH A "STRETCH" IRA

The Stretch IRA is a planning strategy that allows the holder of a tax deferred account such as an IRA or 401K account to enhance the tax-deferred status by extending or "stretching" the payment of benefits over a period of time that can last well beyond the account owner's lifetime. It can result not only in reducing mandatory distributions but in increasing long-term benefits to family members across several generations. This vehicle is best-suited for those individuals (and their spouses) who do not rely on distributions from these accounts to pay for their daily living expenses and who desire to enhance the financial well-being of their heirs and even selected charities. This vehicle is not a new type of account but rather is a planning device that allows a taxpayer to benefit from existing provisions in the Internal Revenue Code.

To achieve the "stretch" it is necessary to ensure that the governing documents name the intended primary and contingent beneficiaries. Failure to do so will limit or reduce the possibility of extending the account's growth as far into the future as possible. To increase the amount to be transferred to your beneficiaries, distributions from the account should be delayed until reaching the age of 70 1/2 years, when the IRS requires that you to begin taking withdrawals. At that time, you should withdraw the "Required Minimum Distribution" or "RMD" the smallest amount that the IRS will allow you to withdraw on an annual basis without incurring a penalty. The extent to which there will be an estate tax liability should also be evaluated as part of the overall estate plan.



When selecting beneficiaries, you have a number of options: you may choose individuals such as family members and friends whose lives are anticipated to span several generations. The selection of your beneficiaries should coordinate with or compliment your other estate planning decisions. The use of a trust to act as a conduit for distributions intended for an underage, irresponsible or incapacitated beneficiary is permissible and will also "stretch" the benefit enjoyed by your beneficiaries. If the appropriate beneficiary designations are in place, at the death of the account owner, the balance remaining in the IRA can be paid out to the beneficiaries over their lifetimes based upon each individual's life expectancy as contained in IRS regulations. If you have also named contingent or secondary beneficiaries, you have maximized planning flexibility as the primary beneficiary will not be obligated to accept the IRA. He or she can refuse or "disclaim" the gift, within nine months of the account owner's death, allowing it pass to the contingent beneficiaries, frequently grandchildren, nieces, nephews or others of a generation significantly younger than the original account owner. This constitutes the "stretch" and compounds the benefits of the tax-deferred growth of the account for several generations beyond the death of the initial account owner.

The rules and regulations governing the distribution of these accounts after the life of the original account owner are highly technical. The IRS requires strict adherence. Any deviation may result in a loss of the anticipated future deferral and compounding benefits of the retirement account and severely limit the planning opportunities which might otherwise be available.

While the "stretch" concept is simple - spreading IRA distributions over the lives of beneficiaries who are younger and have longer life expectancies, thereby capitalizing on the power of tax-deferral and growth-compounding (and, when properly implemented, providing a guaranteed and far-reaching income stream and potential economic well-being for multiple generations of your family) it is a strategy which requires careful and informed decision-making. It is always advisable to consult with your legal advisors with respect to these important matters. We look forward to answering your questions about this subject and would welcome the opportunity to meet with you to discuss its applicability to your own unique situation.

NEW MEDICAID LEGISLATION - DRA

From Page 4

Opponents of the DRA argued, unsuccessfully, that this will not only adversely affect our seniors and other Medicaid recipients but will administratively hamper the application process, create an enormous backlog in applications and also ultimately affect the service providers, such as nursing homes which have extended care to applicant's whose applications are subsequently denied.

Another provision of the law renders ineligible those whose equity interest in their homes exceeds $500,000. Because current New York State law regarding this issue is more generous than the DRA, New York State has a limited period of time within which to enact "enabling legislation" if it is to continue receiving federal funding. Property values in New York are generally higher than elsewhere in the country. For this reason, it is hoped that New York will take advantage of the option available to the states to increase the threshold from $500,000 to $750,000. We will continue to report on this issue as information is available.

The DRA requires annuities that are owned by an applicant to be actuarially sound, irrevocable and non-assignable. More pertinently, it requires the state to be named as a beneficiary to the extent of payments made on behalf of a Medicaid recipient.

While this new law will have a profound affect on our seniors and on the Medicaid application process, one thing is clear - true asset protection planning must now be undertaken as early as possible. If you believe that Medicaid may one day assist you or a family member, or be available as an option in paying for long term care, make an appointment today. If care is already being provided with activities such as feeding, bathing, dressing or toiletting, let's review the circumstances NOW to determine whether a Medicaid application is or will be warranted, and when.

TURNING 65?

If you already receive, or will receive, social security benefits upon turning 65 years of age, you are automatically enrolled in Medicare. If you will not be receiving social security, you must separately apply for Medicare at least three (3) months before turning 65. A delay in signing up for Medicare can delay your benefits!

Berwitz & DiTata LLP

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WE'VE MOVED!

In order to serve you better, we have moved to a larger, more convenient space. Please make note of our new address.

NEW MEDICAID LEGISLATION the Deficit Reduction Act of 2005

On February 1, 2006, Congress passed the Deficit Reduction Act of 2005 ("DRA") which contains provisions that will drastically affect Medicaid asset protection planning and, in fact, the entire application process. The DRA was signed into law by President Bush on February 8, 2006.

While Medicaid reform has long been on the agenda, the changes dictated by the provisions of the new DRA are more Draconian that the former proposals. First, the "look-back" period, during which applicant's must disclose all records reflecting financial assets, transfers and transactions, has been extended from three (3) to five (5) years regardless of whether the transfer was made to an individual or a trust. This change was anticipated. Now, however, the period that an applicant will be ineligible for Medicaid benefits as a result of the transfer of assets during the "look-back" period will begin only when the applicant is otherwise eligible for institutional benefits. Thus, it appears that the new law requires that, for the penalty period to commence, the applicant must be in a nursing home or other approved facility, must have less than the applicable resource allowance, currently $4,150, and must have actually applied for Medicaid benefits. In contrast, under the prior rules, the ineligibility period began on the first day of the month following the transfer.

Former "rule of halves" planning, by which practitioners counseled clients to protect half of the available assets while "spending down" the balance, will no longer be effective.

See DRA, page 3

We Practice Preventative Law!™