Boomers – Be Advised and Be Aware

By: John S. King

Speaking as a young Boomer myself, I'm not sure I know how this could have happened, but the first of the Baby Boomer generation reached age 70 ½ in 2016. Does that mean the phrase "Don't trust anyone over 30" now should read "Don't trust anyone over 80"? I'm not sure about that but what it does mean is that Boomers have to start thinking about taking their "required minimum distributions" (or "RMDs") from their IRAs and other retirement accounts. With certain exceptions relating to continued employment and non-IRA accounts, you must begin taking your RMDs in the year in which you turn 70 ½. Your RMD must be withdrawn from your account by December 31st each year *with the exception of the first year only*, when the RMD can be withdrawn from the account as late as April 1st of the following year.

An individual born between January 1 and June 30, 1946 turned 70 ½ in 2016 and, accordingly, must take their first (the 2016) RMD by April 1, 2017. Someone born between July 1 and December 31, 1946 isn't 70 ½ until 2017 so that person's first (the 2017) RMD must be taken by April 1, 2018. As a general rule, delaying the first RMD until the following year may be unfavorable because it causes a doubling up of taxable income in that year. For example, if you choose to take your initial (2016) RMD in March of 2017 you still have to take your 2017 RMD before the end of calendar year 2017. Combining the 2016 and 2017 RMDs into one tax year increases your Adjusted Gross Income and may increase the amount of your Social Security income subject to tax, increase the premium charged for Medicare Parts B and D, reduce your personal exemption and itemized deductions and have other negative impacts on your tax situation.

Be aware that if you fail to take your RMD by the deadline (whether December 31st or April 1st) you are subject to a penalty tax equal to **50%** of the amount you failed to withdraw from your account.

Many people do not need their RMDs to cover regular living expenses. Whether or not the RMD will be spent it must be taken from the account anyway. One alternative to taking your RMD that Congress made permanent last year is the so-called "direct charitable IRA distribution". This is a rule available to taxpayers over 70 ½ that allows them to direct that a distribution be made from their IRA (but not from a 401(k) or other retirement account) directly to a charitable organization. With a direct charitable distribution the money passing from the IRA to charity is not included in the taxpayer's adjusted gross income and the taxpayer does not get a charitable deduction for the gift. The funds directly given to charity from the IRA do, however, satisfy the taxpayer's obligation to take his or her RMD for that year. Whether the RMD is fully or only partially satisfied depends on the actual amount distributed to charity.

In most respects you would anticipate that a taxpayer who makes a direct charitable IRA distribution will be in the same position income tax-wise as the taxpayer who takes his RMD into income, deposits it in his own account and then makes a gift of an equal amount to charity. For the second taxpayer, the income tax charitable deduction may fully offset the income from the

RMD resulting in zero tax. As mentioned above, however, because the RMD taken into income increases the taxpayer's adjusted gross income that taxpayer runs the risk of losing the benefit of other tax deductions and exclusions and may, in the long run end up paying more in income tax and/or insurance premiums. Another problem for some taxpayers is that if they cannot itemize their deductions would lose any benefit of the charitable deduction. Taking advantage of the direct charitable IRA distribution avoids these potential problems and may put the taxpayer in a better overall income tax position.

The legal and financial decisions made at or near retirement can be complex and may have a long-lasting impact. If you have any questions about this or any other retirement or estate planning issues, please feel free to contact the attorney you typically work with in our office or any of the members of our Estate Planning and Wealth Preservation Practice Group.

Members of the Estate Planning and Wealth Preservation Practice Group

Thomas Bezigian, Jr.	315-477-6267	tbezigian@scolaro.com
Carol A. Christiansen	315-477-6278	cchristiansen@scolaro.com
Daniel J. Fetter	315-477-6268	dfetter@scolaro.com
Jeffrey M. Fetter	315-477-6256	jfetter@scolaro.com
Anthony J. Grizanti	315-477-6265	agrizanti@scolaro.com
John S. King	315-477-6296	jking@scolaro.com
Shane M. McCrohan	315-477-6249	smccrohan@scolaro.com
Stewart M. McGough	315-477-6225	smcgough@scolaro.com
Meghan A. Pompo	315-477-6259	mpompo@scolaro.com
Steven A. Walker	315-477-6298	swalker@scolaro.com

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