

Dear estate planning professional:

Here's a late summer roundup of resources that every tax, investment, and estate planning professional who advises IRA owners needs.

Seymour "Sy" Goldberg, Esq., CPA, was the first to "preach" the income tax deferral potential of the life expectancy payout, back when the first version of the minimum distribution regulations came out in the 80s. He still does every aspect of planning, administration, and advocacy for retirement plan participants and beneficiaries, but his current cause celebre is the trust accounting rules for retirement benefits. He teaches lawyers and CPAs all over the country, helping to close the malpractice gap that's out there for trustees who don't know these rules. Example: Many states' laws do not conform to the IRS's marital deduction requirements regarding the definition of "income" from a retirement plan payable to the trust! If you are a fiduciary or advise fiduciaries, go to <http://www.abanet.org/abastore/index.cfm>, search "Goldberg," and download Sy's *Attorney's Guide to the Revised Trust Accounting Rules, With a State by State Analysis of the Law*, for \$85.95. This publication could save you a LOT of problems.

Ed Slott's IRA Advisor is an eight-page monthly newsletter with in-depth interviews with IRA experts you won't read anywhere else. No other publication is so focused on *estate and distribution planning* for our clients' retirement benefits. Ed has a way of boiling things down to essentials, so you say "oh yeah why didn't I think of that!" Typical nugget: Do your client's year end planning (such as rollovers, conversions, distributions etc.) no later than NOVEMBER. That way if the IRA provider messes up (it happens!) you'll see the mistake on the November statement and still have time to fix it before year-end. Not like when the mistake gets discovered in January! Plus once a year the Advisor includes a chart with the contribution limits and rules for ALL the various types of plans; that issue alone is worth the subscription. Subscribe at [Www.ira-help.com](http://www.ira-help.com).

One more newsletter no estate planner can afford to be without: **Leimberg Information Services Inc** (LISI)'s email-only retirement benefits newsletter, with articles by national experts like Bob Keebler and Barry Picker, plus myself. \$24.95 per month gets you that plus as many other LISI email newsletters as you want—asset protection, estate planning, and charitable planning. Even if you have a full tax service, you need this because the LISI news comes in INSTANTLY, with expert commentary, often written by the insiders who tried the case or got the ruling. Subscription includes access to the vast database and archives, including a state-by-state summary of creditor protection for IRAs. To subscribe or for a one-time free visit, go to Www.leimbergservices.com.

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Now that I've spent all your money for you, I'll take my leave.

Until the next issue,
Natalie B. Choate.

What's New over the Summer?

A new Update to the 6th edition of *Life and Death Planning for Retirement Benefits* has just been posted at www.ataxplan.com. Be sure to download “Version 2, 9/1/07” if you own the book, so your book will be up to the minute. Here are highlights—what’s changed since the last update was posted (Version 1, April 2007).

It was a slow summer. This has been the quietest year for “new developments” that I can remember. The last big event was IRS Notice 2007-7 way back in January. I guess after passing three tax laws in 2006, Congress decided to take a rest and the IRS and the courts followed suit.

SOSEPPs: First the bad news. The IRS has reversed ground again, this time regarding what constitutes a modification of a “series of substantially equal periodic payments” (SOSEPP).

Payments that are part of a SOSEPP are not subject to the 10 percent penalty that normally applies to distributions taken before age 59½, but the protection is lost if the series is “modified.” Rev. Rul. 2002-62 contains the IRS’s instructions for a successful SOSEPP. § 2.02(e)(ii) of that Rev. Rul. provides that “...a modification to the series of payments will occur if...there is...any nontaxable transfer of a portion of the account balance to another retirement plan...”

In the 6th ed. (¶ 9.3.09), I concluded that they did not literally mean ANY tax-free transfer would be a modification, because the IRS had issued two PLRs (2006-31025 and 2006-16046) in which rolling over or transferring assets from the IRA(s) supporting the SOSEPP to another, new, IRA at a different IRA provider (for the purpose of changing investments or financial institutions) did NOT constitute a “modification” of the SOSEPP. But now they’ve issued a ruling just the opposite: The transfer of assets to a new clean IRA for investment reasons DOES constitute a modification, says PLR 2007-20023. This shows the folly of “relying” on PLRs.

Final 403(b), DRAC, regulations: The IRS issued final regulations for 403(b) plans. These make no significant changes, but have some impact on *life insurance* and on *annuity contract swaps*. Final regulations on “designated Roth accounts” (Roth 401(k) and 403(b) accounts) also make no major changes, but clean up some rollover issues and closed some potential loopholes. See the Update at www.ataxplan.com for details on both.

Conduit trusts: Another negative change: The IRS issues a negative (and I believe erroneous) interpretation of how the minimum distribution rules apply to a conduit trust for the surviving spouse when both spouses die young. See PLR 2006-44022 (Appendix 2 of the Update).

Important NUA ruling: Last year the IRS issued a detailed and thorough PLR discussing many aspects of NUA, such as the effect of rehiring (it creates the possibility of a second separation from service, and so a second chance at an “LSD”) and how to determine NUA under a QDRO. The date was 5/16/06, and the number (as stamped on my copy) is 2006-34059. However, my tax service reports an entirely different PLR (dated 5/19/06) under that number (a routine 60-day rollover deadline waiver). I don’t know what’s going on, but you can find the NUA ruling at the IRS website at <http://www.irs.gov/pub/irs-wd/0634059.pdf>. Or you can search for it yourself among letter rulings at www.irs.gov by using the Uniform Issue List (UIL) number 402.07-00.

That’s it! Now I’ll go back to sleep.