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# Trusts & Estates Update

## New Opportunity for IRA Owners: Convert Traditional IRA to Roth IRA

**Green & Seifter Attorneys, PLLC** **December 2009**

Beginning January 1, 2010, traditional IRA owners will have the opportunity to convert a traditional IRA to a Roth IRA without being limited by the IRA owner's income level. Although the Roth IRA is a powerful retirement and estate planning tool, not everyone should rush to convert. Income taxes will be due as a result of the conversion, and this cost must be weighed against the benefits of tax-free growth and tax-free distributions in the future. The best candidates for conversion are those individuals with sufficient wealth outside their IRAs to pay the taxes on the conversion and to cover their living expenses during retirement, with a goal to delay or avoid any withdrawals from the Roth IRA.

**Factors Favoring Conversion:**
- The Owner's income tax bracket is expected to be the same or increase in the future.
- The Owner has sufficient assets outside the Roth IRA to pay the tax on conversion.
- No significant withdrawals from the Roth IRA are needed during lifetime.
- The Owner does not intend to make charitable bequests with IRA monies, or continues to have sufficient non-Roth retirement accounts to fund charitable gifts at death.
- The Owner's estate is large enough to incur federal and state estate tax.

**Factors Against Conversion:**
- The Owner needs to use Roth IRA funds to pay the tax due on conversion.
- Lower federal and state income tax brackets are expected in retirement, or lower beneficiary income tax rates are expected.
- The AMT exemption phase-out would be increased by conversion.
- The Owner will need to take withdrawals from the Roth IRA during lifetime, or anticipates that the beneficiaries will take a full distribution when available.

**Planning Considerations:**
- Match the tax due on conversion with offsetting deductions – accelerate charitable contribution deductions and carryforwards, net operating loss carryforwards, business or other ordinary losses, non-refundable tax credits, or excess deductions and exemptions.
- Create multiple Roth conversion accounts with different asset allocations – later select which to maintain and which to rescind (by the due date of the tax return with extensions).
- Convert "excess IRA" assets (those not needed for living expenses) and maintain a traditional IRA for living expenses and charitable gifts.
- Those who convert to a Roth IRA in 2010 (but not in any other year) may split the income in half between the 2011 and 2012 tax years - to maximize this benefit, consider converting early in 2010.

The decision to convert is not an all or nothing proposition. Current law allows all IRA owners to convert beginning in 2010, but conversions may occur in later years as well. Converting some portion of a traditional IRA over time will spread out the tax consequences, but also will dilute the benefits of the conversion.

The benefits of converting may be significant, but determining whether conversion is appropriate requires a customized analysis based upon your individual circumstances. We, in conjunction with your accountant or other tax advisor, may help you in analyzing whether converting is right for you.

Please be on the lookout for the upcoming Green & Seifter Estate Planning Update 2010 seminar that will include, among other timely topics, information on Roth conversions.