AMERICAN TAXPAYER RELIEF ACT OF 2012 ("ATRA")

Permanency and Pension Provisions

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In Plan Roth Conversions Expanded

Under Section 902 of the American Taxpayer Relief Act of 2012 ("ATRA"), signed into law on January 2, 2013, plan participants will now be allowed to convert their existing pre-tax 401(k) plan account balance to an after-tax Roth 401(k) account but only if the employer offers a designated Roth 401(k) account in the Plan. The employer is not required to include a Roth option in their plan. This is not limited to 401(k) plans but also applies to other defined contribution plans (profit sharing, 403(b) and 457(b) programs) that offer Roth accounts. Currently, more than 40% of large employers offer a Roth option in their plan but these provisions are generally not widely utilized and many smaller employers do not offer the option at all. Previously, this conversion option was only permitted under limited circumstances. Now if the plan document permits it, this conversion will be allowed for all plan participants. These new Roth accounts will be taxed in the year of the conversion at ordinary income tax rates for federal and state tax purposes.

While a plan participant may now be able to convert all or a portion of their traditional 401(k) plan to a Roth 401(k) account, they generally will still not be able to take a withdrawal from the plan and transfer it to a Roth IRA unless otherwise eligible for a distribution.

In order to easily keep track of the Roth component in your plan, it is recommended that a separate subaccount be established if the plan so permits. What are the advantages of the conversion? When your account is converted to a Roth account balance, as stated previously, the income is included in the current year at your current tax bracket. Since it is unknown what the future tax rates may be, future rates may be higher and the growth is not just tax deferred but tax-free.

What are the concerns about conversion? With an IRA, a person can re-characterize a converted Roth IRA back to a traditional IRA again anytime before filing their income tax return for that year. However, a disadvantage of converting an employee's traditional account balance in a qualified plan to a Roth account is that the taxpayer is precluded from re-characterizing the conversion back to a traditional pre-tax account. Therefore, there is no turning back once the traditional account is converted to a Roth account. This may prove to be a problem for an employee who loses their job and is unable to pay the taxes owed on the Roth conversion. If there is a turn in the market, an employee must pay the taxes on the original conversion, even if the present value is less.

In addition to any federal taxes owed on the conversion, an employee must also pay any state taxes owed. Where does someone get the money to pay these taxes? If an employee needs to take money out of the plan to pay the taxes, it is generally not advisable to do the conversion. In addition to the taxable income realized on the conversion, there may also be a 10% penalty incurred for an early distribution from the plan as a result of the withdrawal taken to pay the income tax liability. Furthermore, money growing in the Roth account will now be substantially less if the taxes are paid from the account. In addition, an employee needs to determine if the income realized on the conversion will push them into a higher tax bracket during the year of the conversion. Unlike other net investments, the conversion should not be subject to the new 3.8% tax on net investment of higher income taxpayers under the Affordable Care Act.

Remember, for individuals who have attained their 70 ½ birthday or are more than a 5% owner, a 401(k), as well as a Roth 401(k), account balance is subject to the required annual minimum distribution rules. However, a Roth IRA does not have lifetime required minimum distributions. Therefore, an individual who converts their 401(k) account balance to a Roth 401(k) account balance in the plan should move their Roth 401(k) into a Roth IRA before the year they are required to take their first required minimum distribution.

The new provisions of ATRA allowing for 401(k) conversions for certain taxpayers offers a great opportunity for employees to take advantage of the federal government's short sided solution to a long term problem.

The benefit to the federal government in allowing these conversions is an immediate short-term substantial revenue raiser. Forty (40%) percent of the net worth in this country is contained in tax sheltered retirement accounts. By expanding the ability to convert pre-tax qualified retirement assets to post-tax Roth assets, the Joint Committee on Taxation estimates a $12 billion increase in revenue by 2022.

New Provision from ATRA

Section 208. Extension of Tax-Free Distributions from Individual Retirement Plans for Charitable Purposes:

(a) In general - Subparagraph (F) of section 408(d)(8) is amended by striking "December 31, 2011" and inserting "December 31, 2013".

(b) Effective Date; Special Rule -

(1) Effective date - The amendment made by this section shall apply to distributions made in taxable years beginning after December 31, 2011.

(2) Special Rules - For purposes of subsections (a)(6), (b)(3), and (d)(8) of section 408 of the Internal Revenue Code of 1986, at the election of the taxpayer (at such time and in such manner as prescribed by the Secretary of the Treasury)--

(A) any qualified charitable distribution made after December 31, 2012, and before February 1, 2013, shall be deemed to have been made on December 31, 2012, and

(B) any portion of a distribution from an individual retirement account to the taxpayer after November 30, 2012, and before January 1, 2013, may be treated as a qualified charitable distribution to the extent that--

(i) such portion is transferred in cash after the distribution to an organization described in section 408(d)(8)(B)(i) before February 1, 2013, and

(ii) such portion is part of a distribution that would meet the requirements of section 408(d)(8) but for the fact that the distribution was not transferred directly to an organization described in section 408(d)(8)(B)(i).

American Taxpayer Relief Act of 2012, Pub. L. 112-240, H.R. 8, 126 Stat. 2313, Section 208.

IRA Qualified Charitable Distributions Extended

ATRA continues the prior ability for taxpayers age 70 ½ or older to directly contribute up to $100,000 to their favorite public charity directly from their IRA. However, because of the late passage of the bill, distributions to IRA holders in December, 2012 and paid now to the charity before February 1, 2013, can now be deemed to have been paid directly.

Since 2006, under the Pension Protection Act under Section 408(d) of the Internal Revenue Code, a person aged 70 ½ and older could directly transfer up to $100,000 per year total from their IRA or Roth IRAs to a public charity that is not a supporting organization. A contribution to a donor-advised fund or a private foundation, except in narrow circumstances, does not qualify for tax-free IRA rollover contributions. The contribution is made directly from the IRA trustee to the public charity. In order for the taxpayer to get the tax-free treatment of the IRA, a donor must get a written substantiation of the IRA rollover contribution from the charity receiving the funds.

This transfer would count towards any minimum required distributions for IRAs. Roth IRAs do not have a required minimum distribution. While Roth IRAs are allowed to be used for this donation, it generally would not be beneficial for tax purposes since there are no taxes due when withdrawals are made from a Roth IRA. The taxpayer would not include the money in income, and conversely, would not get a deduction for the charitable donation. The previous law expired in 2011; however, under Section 208 of ATRA, the IRA charitable rollover was extended until December 31, 2013.

Due to the inaction of Congress, many people who would have directly contributed to a charity in 2012 instead took their required distributions in cash. In response to this issue, ATRA allows the taxpayer to apply distributions made in taxable years after December 31, 2012. ATRA will consider any qualified charitable distribution made in January, 2013 to be deemed made on December 31, 2012. In addition, any portion of a distribution made to a taxpayer in December, 2012 from an IRA can be treated as a qualified charitable donation if the portion is transferred in cash to a charitable organization in January, 2013 and the distribution would meet the standards set forth in Section 408(d)(8), even though the distribution was not directly transferred to the charitable organization.

While this direct contribution to a charity will reduce a taxpayer's income for federal tax purposes, the distribution is still generally subject to New Jersey state income tax.

Individuals who are over 70 ½, can give $200,000 in 2013 as long as $100,000 is donated to a charity before February, 2013. The remaining $100,000 can be donated before December 31, 2013.

DIRECT TRANSFER OF IRA FUNDS TO A QUALIFIED PUBLIC CHARITY BY AN IRA OWNER WHO HAS REACHED AGE 70½

PERTINENT INFORMATION

- Mrs. Kugler will reach age 70½ this year.
- She has $1,000,000 in a traditional IRA.
- Her Required Minimum distribution (RMD) for the current year is $36,500.
- She prefers to take as little as possible out of the IRA.
- Mrs. Kugler wants to make a gift of $25,000 to a qualified public charity.

GOALS AND OBJECTIVES

- Mrs. Kugler has been told that she can transfer $25,000 from her IRA account directly to a public charity.
- She would like to know the requirements and income tax treatment applicable to the direct transfer of the IRA funds to a charity.
- She would also like to know the advantages of the IRA charitable gift arrangement.

PROPOSED ARRANGEMENT

- The following are the requirements and favorable income tax treatment applicable to a direct transfer from the IRA account to a qualified public charity.
- Under the American Taxpayer Relief Act of 2013 ("ATRA"), an IRA owner is still allowed to make distributions from their traditional IRA and/or Roth IRA to a qualified public charity. This provision is applicable for distributions through December 31, 2013.
  - The contribution must be from the IRA account (not a qualified retirement plan, simple IRA, SEP, or Section 403(b) annuity).
  - The IRA owner must have attained age 70½ when the gift is made.
  - The IRA distribution must be made from the IRA trustee directly to a qualified public charity (described in IRC Section 170(b)(1)(a)). Contributions to a private foundation, charitable remainder trust, donor advised fund, or supporting organization will not be eligible for tax-free IRA distributions.
- The following are the tax aspects applicable to a direct IRA transfer to the charity.
  - The IRA owner may exclude from gross income up to $100,000 of otherwise taxable distributions from the IRA to the charity.
  - The IRA owner is **not** entitled to a charitable deduction for the distributions to the qualified public charity.
  - The RMD for the current year will be reduced by the amount of the IRA distribution to the charity.

RESULTS AND BENEFITS

- ❑ Mrs. Kugler does not receive a charitable income tax deduction. However, she does not have to report the $25,000 IRA charitable contribution as income, and her RMD is reduced by $25,000.

- ❑ Since Mrs. Kugler meets the requirements for the direct IRA transfer to charity, she should consider utilizing her IRA to fulfill her charitable gift.

- ❑ Mrs. Kugler would not receive a charitable deduction for the $25,000 IRA distribution.

- ❑ The $25,000 IRA charitable contribution will reduce Mrs. Kugler's $36,500 RMD for the current year by $25,000 to $11,500.

- ❑ The primary advantage of the direct IRA transfer to the qualified public charity is that Mrs. Kugler does not have to report the IRA distribution as income. Not reporting the $25,000 distribution as income is generally better than receiving a charitable deduction, because it does not factor into the 50% limitation on charitable contributions and/or the partial phase-out of the standard deduction for high income taxpayers.

Direct transfer of IRA funds to a qualified public charity by the IRA owner who has attained age 70½

NOTE: Because of the delay in the enactment of this legislation, a special rule applies for 2012 and 2013. Distributions paid directly to IRA owners in December, 2012 are eligible to be treated as 2012 direct payments to the public charity if paid to them on or before February 1, 2013. Also, January, 2013 distributions paid directly to charity may be treated as made in 2012 if the taxpayer so elects.

From the book: A Retirement Concepts Technique Book. 9th Edition 2013 by Leonard J. Witman and Frank Rainaldi.

THE SIGNIFICANCE OF HOW IRA BENEFITS ARE PAYABLE TO A SURVIVING SPOUSE

PERTINENT INFORMATION

- Mr. K has $1,000,000 in a rollover IRA.
- He is considering the following designated beneficiary options:
  - Outright to Mrs. K (surviving spouse).
  - Conduit IRA QTIP Trust
  - Accumulation IRA QTIP Trust
- At the demise of Mrs. K their son will be the remainder beneficiary.

GOALS AND OBJECTIVES

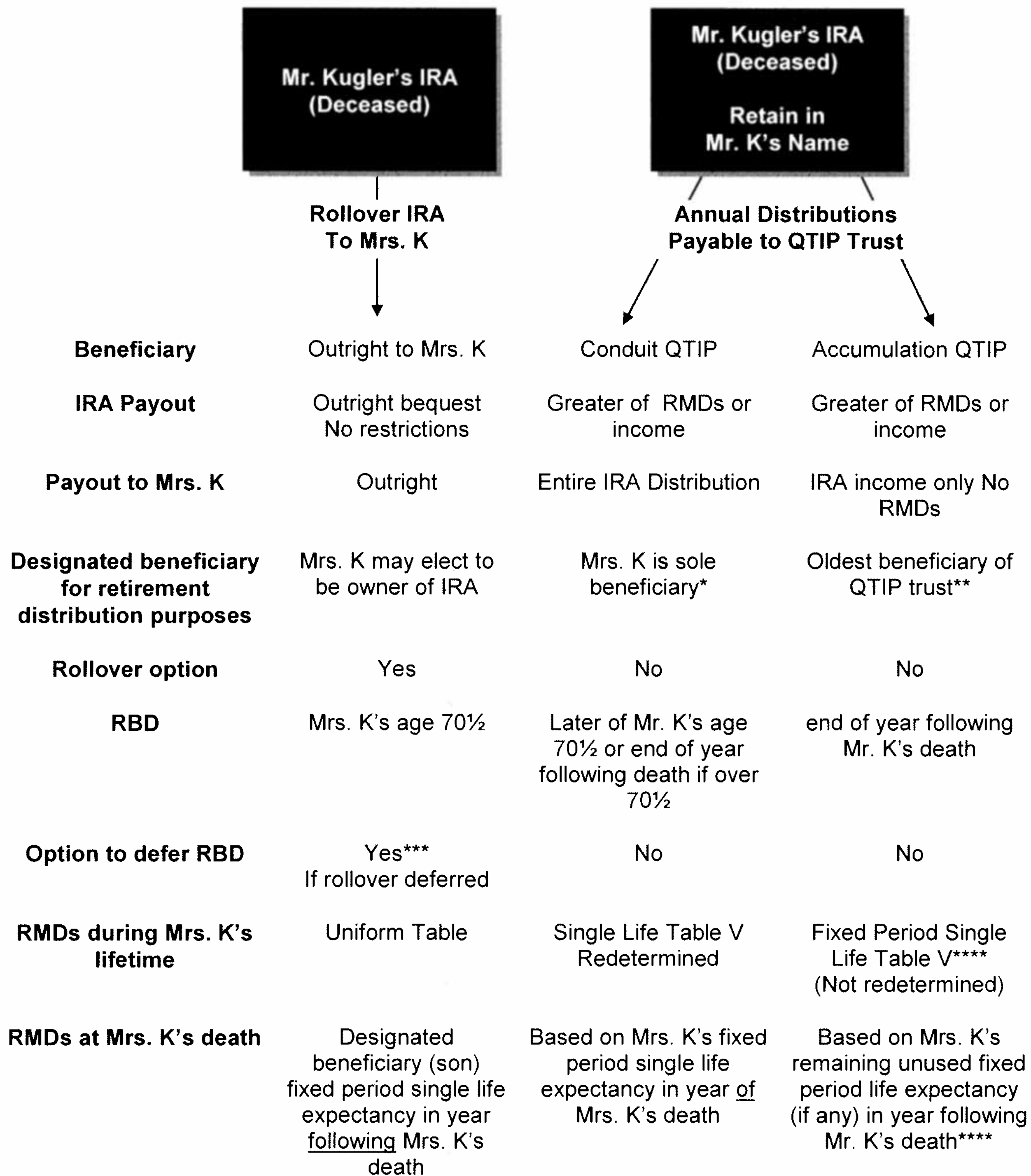
- Assume that Mr. K predeceases Mrs. Kugler.
- Mr. K would like to know the implications of each of the three beneficiary designations on the subsequent IRA distributions.
- Assume that under the outright beneficiary arrangement Mrs. K will roll the IRA into her name and name the son as the designated beneficiary.

PROPOSED ARRANGEMENT

- Provide a summary of the implications of each of the three beneficiary designations to Mr. Kugler and the beneficiary.

RESULTS AND BENEFITS

- For retirement distribution purposes, the outright bequest provides the more favorable options and greater flexibility.
- The conduit IRA provides more favorable options and greater flexibility than the accumulation IRA.
- However, the choice of beneficiary and beneficiary arrangement must be based on Mr. Kugler's overall objectives.



	Rollover IRA To Mrs. K	Annual Distributions Payable to QTIP Trust	
Beneficiary	Outright to Mrs. K	Conduit QTIP	Accumulation QTIP
IRA Payout	Outright bequest No restrictions	Greater of RMDs or income	Greater of RMDs or income
Payout to Mrs. K	Outright	Entire IRA Distribution	IRA income only No RMDs
Designated beneficiary for retirement distribution purposes	Mrs. K may elect to be owner of IRA	Mrs. K is sole beneficiary*	Oldest beneficiary of QTIP trust**
Rollover option	Yes	No	No
RBD	Mrs. K's age 70½	Later of Mr. K's age 70½ or end of year following death if over 70½	end of year following Mr. K's death
Option to defer RBD	Yes*** If rollover deferred	No	No
RMDs during Mrs. K's lifetime	Uniform Table	Single Life Table V Redetermined	Fixed Period Single Life Table V**** (Not redetermined)
RMDs at Mrs. K's death	Designated beneficiary (son) fixed period single life expectancy in year <u>following</u> Mrs. K's death	Based on Mrs. K's fixed period single life expectancy in year <u>of</u> Mrs. K's death	Based on Mrs. K's remaining unused fixed period life expectancy (if any) in year following Mr. K's death****

* Mrs. K is deemed the sole beneficiary because she is entitled to all IRA distributions during her lifetime.

** Look through the trust terms to ascertain the beneficiaries of the trust. You must use the oldest trust beneficiary (shortest life expectancy) as the measuring life for all retirement distribution calculations. Since Mrs. K is the oldest trust beneficiary, her life expectancy will be used. However, since the surviving spouse (Mrs. K) is not the sole designated beneficiary, her life expectancy may not be redetermined.

*** Mrs. K may want to defer RBD until Mr. K would have attained age 70½ (if she were the older spouse).

**** Mrs. K's fixed period life expectancy in year of Mr. K's death. If she survives that period, all RMDs will have been paid during her lifetime. If she dies during the period, RMDs continue for the duration of the fixed period.

ANALYSIS OF STRETCH OUT IRAs UNDER DIFFERENT SPOUSAL BENEFICIARY OPTIONS (DEATH AFTER RBD)

PERTINENT INFORMATION

- There are four Kugler brothers.
- Each has a traditional IRA and expects to accumulate $1,000,000 by age 70.
- At age 70 each brother expects to commence taking Required Minimum Distributions (RMDs).
- They believe their IRA will earn 7% and they will only take the RMDs during their lifetime. The 7% growth rate will consist of 3% income and 4% appreciation.
  - Note: The definition of trust income will vary based on state laws.
- Estate tax on the IRA will be paid from other estate assets or life insurance.

GOALS AND OBJECTIVES

- Each brother would like an illustration showing the payout and accumulations for the IRA under the following assumptions.
  - The payout to each brother (age 70) is for 16-years (Mr. K dies age 85).
  - The surviving spouse is 7 years younger (age 63) and will survive by seven years and also die at age 85.

PROPOSED ARRANGEMENT

- Assume the following designated beneficiaries are applicable:
  - Kugler brother No. 1 – Mrs. K is the outright beneficiary, and she will name their son as designated beneficiary. Their son will be age 50 in the year following Mrs. K's death (34.2 year life expectancy).
  - Kugler brother No. 2 – A Conduit QTIP Trust will be beneficiary. Mrs. K will qualify as sole designated beneficiary. The son is the remainder interest beneficiary.
  - Kugler brother No. 3 – An Accumulation QTIP Trust will be the beneficiary. Mrs. K will be the oldest Trust beneficiary. However, under this arrangement she does not qualify as the sole designated beneficiary. She is considered a non-spousal designated beneficiary. At Mrs. K's death the son is the remainder interest beneficiary.
  - Kugler brother No. 4 – Assume Mrs. K is the outright beneficiary, and she will name their grandson* as the designated beneficiary. The grandson will be age 30 (53.3 year life expectancy) in the year following Mr. K's death.

* Assume the son has predeceased Mrs. K so there would be no generation skipping transfer.

Note: A credit shelter bypass trust, structured with the same payout requirements to the surviving spouse as a QTIP, could produce the same results for retirement distribution purposes. However, the trust principal would not be included in the surviving spouse's subsequent estate.

Note: In each situation the RMD will be greater than the income earned within the IRA.

Kugler Brother 1
Beneficiary: Mrs. K outright

During Mr. K's Lifetime (Uniform Table life expectancy)

Year	Mr. Kugler's Age	IRA Beginning Balance	Uniform Table Life Expectancy	Applicable Percentage	RMD	IRA Ending Balance 7% Growth
1	70	$1,000,000	27.4	3.65%	($36,496)	$1,033,504
2	71	1,033,504	26.5	3.77%	(39,000)	1,066,849
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10	79	1,277,882	19.5	5.13%	(65,532)	1,301,801
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15	84	1,369,220	15.5	6.45%	(88,337)	1,376,728
16 (year of death)	85	1,376,728	14.8	6.76%	(93,022)	1,380,077
				Total RMDs	($986,008)	

At Mr. K's death, Mrs. K is the outright beneficiary of the IRA.

In year following Mr. K's death, Mrs. K (age 79) will roll IRA into her own name and take first RMD (if Mrs. K were under age 70½ at the time of the rollover, the RMDs would begin at her age 70½).

Year	Mrs. Kugler's Age	IRA Beginning Balance	Uniform Table Life Expectancy	Applicable Percentage	RMD	IRA Ending Balance 7% Growth
1	79	$1,380,077	19.5	5.13%	($70,773)	$1,405,909
2	80	1,405,909	18.7	5.35%	(75,182)	1,429,141
3	81	1,429,141	17.9	5.59%	(79,840)	1,449,340
4	82	1,449,340	17.1	5.85%	(84,757)	1,466,037
5	83	1,466,037	16.3	6.13%	(89,941)	1,478,719
6	84	1,478,719	15.5	6.45%	(95,401)	1,486,828
7	85	1,486,828	14.8	6.76%	(100,461)	1,490,445
				Total RMDs	($596,356)	

At Mrs. K's death, the son is the sole designated beneficiary. However, the RMDs will now be based on the son's (age 50) fixed period life expectancy in the year following Mrs. K's death.

At Mrs. K's Death: Payout to son for 34.2 year fixed period life expectancy

Year	Son's Age	IRA Beginning Balance	Fixed Life Expectancy Table V	Applicable Percentage	RMD	IRA Ending Balance 7% Growth
1	50	$1,490,445	34.2	2.92%	($43,580)	$1,551,195
2	51	1,551,195	33.2	3.01%	(46,723)	1,613,056
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10	59	2,060,444	25.2	3.97%	(81,764)	2,122,911
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20	69	2,529,047	15.2	6.58%	(166,385)	2,539,696
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30	79	1,833,037	5.2	19.23%	(352,507)	1,608,843
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35	84	147,674	0.2	100.00%	(158,011)	(0)
				Total RMDs	($6,337,349)	

If son dies before 34.2 years, RMDs will continue to son's designated beneficiary (assume Mr. K's grandson).

Kugler Brother 2

Beneficiary: Conduit QTIP

During Mr. K's Lifetime (Uniform Table life expectancy)

Year	Mr. Kugler's Age	IRA Beginning Balance	Uniform Table Life Expectancy	Applicable Percentage	RMD	IRA Ending Balance 7% Growth
1	70	$1,000,000	27.4	3.65%	($36,496)	$1,033,504
2	71	1,033,504	26.5	3.77%	(39,000)	1,066,849
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10	79	1,277,882	19.5	5.13%	(65,532)	1,301,801
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15	84	1,369,220	15.5	6.45%	(88,337)	1,376,728
16 (year of death)	85	1,376,728	14.8	6.76%	(93,022)	1,380,077
				Total RMDs	**($986,008)**	

At Mr. K's death, Mrs. K (then age 78) will be recognized as sole designated beneficiary via conduit QTIP. However, she is not the IRA owner (cannot roll over); therefore, her single life expectancy (redetermined) in the year of Mr. K's death under Table V may be used for RMD calculations. She is not required to take the first distribution until the following year (if Mr. K died prior to age 70½, then RMDs may be deferred until he would have reached age 70½).

At Mr. K's Death; payout to Mrs. K via conduit QTIP (redetermined single life expectancy)

Year	Mrs. Kugler's Age	IRA Beginning Balance	Table V Single Life Expectancy	Applicable Percentage	RMD*	IRA Ending Balance 7% Growth
1	79	$1,380,077	10.8	9.26%	($127,785)	$1,348,897
2	80	1,348,897	10.2	9.80%	(132,245)	1,311,075
3	81	1,311,075	9.7	10.31%	(135,162)	1,267,688
4	82	1,267,688	9.1	10.99%	(139,306)	1,217,120
5	83	1,217,120	8.6	11.63%	(141,526)	1,160,793
6	84	1,160,793	8.1	12.35%	(143,308)	1,098,741
7	85	1,098,741	7.6	13.16%	(144,571)	1,031,081
				Total RMDs	**($963,903)**	

At Mrs. K's death, the son is the sole designated beneficiary. However, the RMDs are based on Mrs. K's fixed period single life expectancy in the year of her death.

* The RMD is greater than the assumed 3% income earned by the IRA. However, if the IRA income were greater, the distribution from the IRA would be increased to satisfy the QTIP spousal income requirement.

At Mrs. K's Death: Payout to son for Mrs. K's 7.6 year fixed period life expectancy

Year	Son's Age	IRA Beginning Balance	Fixed Life Expectancy Table V	Applicable Percentage	RMD	IRA Ending Balance 7% Growth
1		$1,031,081	7.6	13.16%	($135,669)	$967,588
2		967,588	6.6	15.15%	(146,604)	888,715
3	Not	888,715	5.6	17.86%	(158,699)	792,226
4	A	792,226	4.6	21.74%	(172,223)	675,459
5	Factor	675,459	3.6	27.78%	(187,627)	535,114
6		535,114	2.6	38.46%	(205,813)	366,759
7		366,759	1.6	62.50%	(229,224)	163,208
8		163,208	0.6	100.00%	(174,632)	(0)
				Total RMDs	**($1,410,492)**	

Kugler Brother 3
Beneficiary: Accumulation QTIP

During Mr. K's Lifetime (Uniform Table life expectancy)

Year	Mr. Kugler Married (Age)	IRA Beginning Balance	Uniform Table Life Expectancy	Applicable Percentage	RMD	IRA Ending Balance 7% Growth
1	70	$1,000,000	27.4	3.65%	($36,496)	$1,033,504
2	71	1,033,504	26.5	3.77%	(39,000)	1,066,849
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10	79	1,277,882	19.5	5.13%	(65,532)	1,301,801
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15	84	1,369,220	15.5	6.45%	(88,337)	1,376,728
16 (year of death)	85	1,376,728	14.8	6.76%	(93,022)	1,380,077
				Total RMDs	**($986,008)**	

At Mr. K's death, Mrs. K (age 78) will be the oldest beneficiary of the QTIP Trust. Therefore, her life expectancy will be used for retirement distribution calculations. However, she is not the sole designated beneficiary. As a result, her single life expectancy is **not** redetermined under Table V. Thus the payout is for a fixed period based upon her life expectancy (10.8 years) in the year **following** Mr. K's death.

At Mr. K's Death; 10.8 year fixed period (life expectancy at age 79) payout to traditional QTIP

IRA				QTIP			
Year	Beginning Balance	RMD paid to QTIP	Ending Balance	3% IRA Income to Mrs. K via QTIP	Difference Between RMD and 3% QTIP	Cumulative after Tax (40%) difference	3% from prior year's QTIP balance to Mrs. K
1	$1,380,077	($127,785)	1,348,897	($41,402)	($86,383)	($51,830)	$0
2	1,348,897	(137,643)	1,305,678	(40,467)	(97,176)	(110,135)	(1,555)
3	1,305,678	(148,372)	1,248,703	(39,170)	(109,202)	(175,656)	(3,304)
4	1,248,703	(160,090)	1,176,022	(37,461)	(122,629)	(249,234)	(5,270)
5	1,176,022	(172,944)	1,085,399	(35,281)	(137,664)	(331,832)	(7,477)
6	1,085,399	(187,138)	974,239	(32,562)	(154,576)	(424,577)	(9,955)
7	974,239	(202,966)	839,469	(29,227)	(173,739)	(528,821)	(12,737)*
	Total	**$(1,136,939)**		**($255,570)**			**($40,298)**

At Mrs. K's death, the son is the sole designated beneficiary. However, the RMDs are now based on Mrs. K's remaining unused fixed period life expectancy in the year of her death.

At Mrs. K's Death: Payout to son is for Mrs. K's remaining unused 3.8 year life expectancy

IRA				QTIP			
Year	Beginning Balance	RMD paid to QTIP	Ending Balance	3% IRA Income to Son via QTIP	Difference Between RMD and & 3% QTIP	Cumulative after Tax (40%) difference	3% from prior year's QTIP balance to son
1	$839,469	($220,913)	$677,319	(25,184)	(195,729)	(646,258)	(15,865)
2	677,319	(241,900)	482,832	(20,320)	(221,580)	(779,206)	(19,388)
3	482,832	(268,240)	248,390	(14,485)	(253,755)	(931,459)	(23,376)
4	214,592	(265,777)	0	(7,452)	(258,326)	(1,086,455)	(27,944)
	Total	**(996,830)**		**(67,440)**			**(86,572)**

Note: The RMD is greater than the assumed 3% income earned by the IRA. The excess (after-tax) is accumulated in the QTIP trust to eventually be paid to the remainder beneficiary. However, if the IRA income were greater, the distribution from the IRA would be increased to satisfy the QTIP spousal income requirement.

Kugler Brother 4
Beneficiary: Mrs. K outright

During Mr. K's Lifetime (Uniform Table life expectancy)

Year	Mr. Kugler's Age	IRA Beginning Balance	Uniform Table Life Expectancy	Applicable Percentage	RMD	IRA Ending Balance 7% Growth
1	70	$1,000,000	27.4	3.65%	($36,496)	$1,033,504
2	71	1,033,504	26.5	3.77%	(39,000)	1,066,849
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10	79	1,277,882	19.5	5.13%	(65,532)	1,301,801
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15	84	1,369,220	15.5	6.45%	(88,337)	1,376,728
16 (year of death)	85	1,376,728	14.8	6.76%	(93,022)	1,380,077
				Total RMDs	**($986,008)**	

At Mr. K's death, Mrs. K is the outright beneficiary of the IRA.

In year following Mr. K's death, Mrs. K (age 79) will roll IRA into her own name and take her first RMD (if Mrs. K were under age 70½ at the time of the rollover, the RMDs would begin at her age 70½).

Year	Mrs. Kugler's Age	IRA Beginning Balance	Uniform Table Life Expectancy	Applicable Percentage	RMD	IRA Ending Balance 7% Growth
1	79	$1,380,077	19.5	5.13%	($70,773)	$1,405,909
2	80	1,405,909	18.7	5.35%	(75,182)	1,429,141
3	81	1,429,141	17.9	5.59%	(79,840)	1,449,340
4	82	1,449,340	17.1	5.85%	(84,757)	1,466,037
5	83	1,466,037	16.3	6.13%	(89,941)	1,478,719
6	84	1,478,719	15.5	6.45%	(95,401)	1,486,828
7	85	1,486,828	14.8	6.76%	(100,461)	1,490,445
				Total RMDs	**($596,356)**	

At Mrs. K's Death: Payout to grandson for 53.3 year fixed period single life expectancy

Year	Grand-son's Age	IRA Beginning Balance	Fixed Life Expectancy Table V	Applicable Percentage	RMD	IRA Ending Balance 7% Growth
1	30	$1,490,445	53.3	1.88%	($27,963)	$1,566,812
10	39	2,305,431	44.3	2.26%	(52,041)	2,414,769
20	49	3,571,389	34.3	2.92%	(104,122)	3,717,264
30	59	5,092,612	24.3	4.12%	(209,573)	5,239,523
40	69	6,108,868	14.3	6.99%	(427,194)	6,109,295
50	79	3,929,373	4.3	23.26%	(913,808)	3,290,622
54	83	482,183	0.3	100.00%	(515,936)	0
				Total RMDs	**($16,320,607)**	

If grandson dies before 53.3 years, RMDs will continue to the designated beneficiary.

RESULTS AND BENEFITS

- Brother No. 1, **outright to spouse** and subsequent rollover with **son** as remainder beneficiary.

Years		RMDs	IRA Balance
16	During Mr. K's Lifetime	$986,008	$1,380,077
7	During Mrs. K's Lifetime	596,356	1,490,445*
34	During Son's Lifetime	6,337,349	0
57		**$7,919,713**	

- Brother No. 2, **conduit QTIP trust** (spouse is sole designated beneficiary) with son as remainder beneficiary.

Years		RMDs	IRA Balance
16	During Mr. K's Lifetime	$986,008	$1,380,077
7	During Mrs. K's Lifetime	963,903	1,031,081*
8	During Son's Lifetime	1,410,492	0
31		**$3,360,403**	

- Brother No. 3, an accumulation **QTIP trust** (spouse is not sole designated beneficiary) with son as remainder beneficiary.

Years		RMDs	3% IRA Income via QTIP	Ending IRA Balance	After-Tax QTIP Balance	3% Income from QTIP Balance	IRA & QTIP Balance
16	During Mr. K's lifetime	(986,008)	$0	1,380,077	$0	$0	1,380,077
7	During Mrs. K's lifetime	(1,136,939)	255,570**	839,469	528,821	$40,298**	1,368,290*
4	During son's lifetime	(996,830)	67,440	0	1,086,455	86,572	1,086,455
27		**($3,119,777)**	**$323,011**			**$126,870**	

- Summary of RMD Payout: 16 years to Mr. K $986,008; 7 years to the QTIP Trust during Mrs. K's lifetime $1,136,939; and 3.8 additional years to the QTIP Trust after Mrs. K dies for the balance of her 10.8 year life expectancy $996,830.

- Note: the QTIP balance is the cumulative after-tax (assume 40%) RMDs in excess of 3% QTIP income paid out to Mrs. K for her lifetime and then to their son for four years. The QTIP trust is assumed to grow by a net 4% each year (7% growth less 3% income payout).

- Brother No. 4, **outright to spouse** and subsequent rollover with grandson as remainder beneficiary.

Years		RMDs	IRA Balance
16	During Mr. K's lifetime	$986,008	1,380,077
7	During Mrs. K's lifetime	596,356	1,490,445*
54	During Grandson's lifetime	16,320,607	0
77		**$17,902,972**	

* Estate tax is assumed to be payable from other estate assets or life insurance.

** The total payout to Mrs. K would be $295,868 (3% income from IRA $255,570 plus 3% income from QTIP $40,298). Mrs. K is entitled to income earned on IRA and QTIP assets, but not the RMD.

Portability

Probably one of the most advantageous provisions contained in ATRA is answer to the question of permanency of portability. Many of our clients had substantial amounts of assets, a significant portion of which were held in qualified monies. We had to make a decision of whether we paid the retirement assets to the spouse, to a credit shelter trust, to the children, or to a QTIP trust. With the permanency of portability, as a general rule, if you are married, your surviving spouse is the best beneficiary to receive most, if not all, of your qualified retirement assets, Individual Retirement Accounts and Roth accounts. With portability, the taxpayer has the ability to continue to defray all federal and state estate or inheritance taxes on these distributions until the death of both the husband and wife. We no longer have to bifurcate retirement assets trying to determine if the income or estate tax benefits are more advantageous. Since ATRA makes the federal estate tax inapplicable to over 99% of the U.S. populous, taxpayers can direct the payment of the retirement assets exactly as they wish without having to consider whether estate tax exclusion is more beneficial than income tax deferrals. However, taxpayers should not fail to consider the estate tax implications of New Jersey or New York, which currently have estate tax exclusion amounts of $675,000 and $1,000,000, respectively, and which do not apply portability.