

# ***The “Daily Plan-It”™***

*SHUMATE BROKERAGE CORP.*

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## **Two Smart Things To Do with Inherited IRA Part II**

As we discussed in Part I in the last newsletter, the IRS recently issued two important private letter rulings about inherited IRAs. The ruling we discussed last time allows for the creation of “separate share” for a trust beneficiary if the plan participant named his or her trust as the beneficiary of the IRA. The other ruling, which we will discuss today, allows the beneficiary of an IRA to transfer his or her interest in an inherited IRA to a trust. However, as we saw last time, each case involved sloppy planning, and the plan participant could have done better. We’ll look at the second opinion in today’s newsletter.

### **Rolling over interest into a new trust**

In February, the IRS issued an equally interesting ruling—PLR 20062002. In this case, the father was the plan participant. He passed away, naming his four children as the beneficiaries of his IRA. One of the children was receiving Medicaid benefits. As a result, if the IRA passed directly to that child, he would be disqualified from public assistance. The mother of the beneficiary obtained the private letter ruling, which authorized the beneficiary to create his own revocable trust, and to name that trust as the beneficiary of the IRA. As a result, the assets will be held in trust for the benefit of the beneficiary and be distributed over his lifetime. Additionally, because the assets are held in a special needs trust, the IRA beneficiary will not be disqualified from public benefits.

### **“Self-settled” special needs trust**

In this particular instance, because the trust created by the beneficiary (through his mother) constitutes a “self-settled” special needs trust, the trust, under the law, must provide that anything left over upon the beneficiary’s death is distributed to the state which provides the Medicaid benefits.

## **Was the planning effective?**

Despite this very valuable result, in this particular instance, the father, who was the owner of the IRA, could have done much more effective planning for his special needs child. It would have been much more effective for dad to have created a stand-alone IRA trust with special needs provisions for the disabled beneficiary, and to name the trust as beneficiary. If he had planned in this manner, there would be no risk of the beneficiary losing his public benefits.

## **All in the family**

Additionally, because the trust created by the plan participant would not be a self-settled trust, any funds left in the trust upon the death of the disabled beneficiary could be distributed to his children or siblings, rather than to the state.

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