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Estate Planning for Retirement Benefits: Selected Case Studies

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Estate Planning for Retirement Benefits: Selected Case Studies

by

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Parts of the following text are excerpted from Ms. Choate's book *Life and Death Planning for Retirement Benefits* (Ataxplan Publications, 1996; 800-247-6553; \$79.95 plus shipping, including *The 1998 Supplement*). All rights reserved.

This outline describes two common estate planning situations involving retirement benefits, including: the facts, the problem(s) presented, and a suggested solution.

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Introduction: Glossary and explanation of terms

This outline assumes that the reader is familiar with basic estate planning concepts (such as the “credit shelter trust” and marital deduction requirements) and also with the “minimum distribution rules” of § 401(a)(9) of the Internal Revenue Code. A reader who is not familiar with the minimum distribution rules may wish to read Chapter 1 of the author’s book *Life and Death Planning for Retirement Benefits*.

Each case study contains forms that might be used to implement the suggested estate plan. These forms are intended merely as examples. In the forms section of each case study, the boxed text contains comments on the forms and the unboxed text is the form.

References in this outline to section numbers refer to sections of the Internal Revenue Code of 1986 unless otherwise specified. References to proposed regulations (“Prop. Reg.”) refer to the IRS’s proposed minimum distribution regulations, § 1.401(a)(9)-1 *et seq.*

Other technical terms and abbreviations used in this outline are as follows:

Designated beneficiary: the person or persons who will inherit a participant’s retirement benefit when the participant dies.

MDIB rule: the “minimum distribution incidental benefit rule.” For details, see Prop. Reg. § 1.402(a)(9)-2. Generally, this rule requires that, for purposes of computing the joint and survivor life expectancy of a participant and his non-spouse designated beneficiary, during the participant’s lifetime, the designated beneficiary is deemed to be no more than ten years younger than the participant.

Minimum required distribution: the amount required, under the “minimum distribution rules” of § 401(a)(9), to be distributed in any particular year from a retirement plan or IRA.

Required beginning date: the date by which a living participant is required to begin withdrawing from his retirement plan. In the case of IRAs, this date is April 1 following the year in which the individual reaches age 70½.

I. Allen Able: Funding a Credit Shelter Trust with Retirement Benefits

One of the most common problems presented in estate planning is that of the married couple whose combined estate is large enough to be subject to estate taxes, but who cannot adopt a “credit shelter” estate plan unless retirement benefits are used to fund the “credit shelter” share of one or both spouses. Although this problem occurs in estates of virtually all sizes, this case study focuses on the smaller estate.

A. The Facts

Allen and Alice Able are both age 65. Both are retired. They are living on Social Security, Allen’s pension from Big Corp., and investment income. Their assets are:

	<u>Husband</u>	<u>Wife</u>
House		300,000
Cash, marketable securities		350,000
Life Insurance	50,000	
IRA	<u>600,000</u>	<u> </u>
Totals	650,000	650,000

Total assets for estate planning purposes: \$1.3 million

Allen’s Big Corp. pension is not listed as an asset for estate planning purposes because it ends on the death of the surviving spouse. Therefore it will not be subject to estate taxes and it not an asset the Ables can pass to their child, Little Al.

Right now Allen and Alice do not need to make any withdrawals from the IRA for their living expenses. They would like to preserve the IRA as a nest egg and let it continue to build up as long as possible, with the goal of leaving it to their child.

Allen Able wants to take advantage of the tax saving ideas he has read about in several books on estate planning. He states his goals as follows:

1. Allen’s primary goal is to provide for Alice Able’s financial security, support and comfort.
2. He also wants to take advantage of his federal estate tax “exemption” or “credit shelter,” so that neither spouse’s estate will exceed the \$650,000 limit (applicable to deaths in 1999), and the Ables’ child will have no estate taxes to pay.
3. Finally, Allen wants to maximize the income tax deferral potential of his IRA by causing it eventually to be paid out to the Ables’ child over her life expectancy.

B. The Problem

The bad news for Allen is: the estate plan can achieve any two of his goals, but cannot achieve all three.

Scenario 1: How to maximize income tax deferral and eliminate estate taxes.

Allen can best achieve his tax saving goals by naming his daughter Little Al, directly, as beneficiary of his IRA.

Naming his daughter minimizes *estate taxes* because, when he dies, the benefits will not be subject to estate tax in his estate (because the total passing to the child will be less than the credit shelter amount). The benefits are also kept out of *Alice's* estate because they pass directly to daughter Little Al at Allen's death.

Naming his daughter also minimizes *income taxes*, both during Allen's life and after his death. During his life, when Allen reaches his required beginning date, if Little Al is named as his designated beneficiary, Allen can withdraw from the plan over the joint life expectancy of Little Al and Allen (as limited by the MDIB rule). The first year's required payment under the MDIB rule would be only 1/26.2th of the account balance. In contrast, if Allen names wife Alice (or a trust of which she is the oldest beneficiary) as his designated beneficiary, their joint life expectancy at Allen's required beginning date will be 20.2 years, and Allen will be forced to make withdrawals more quickly.

After Allen's death, Little Al as beneficiary can withdraw the remaining benefits over her life expectancy. In contrast, if Alice is named as beneficiary, she could withdraw Allen's benefits, roll them to her own IRA, and name Little Al as her beneficiary. Then Alice could withdraw the benefits over the joint life expectancy of Alice and Little Al, as limited by the MDIB rule. But this provides less income tax deferral (faster required payout) than if Little Al were named directly as Allen's beneficiary, because in that case there would be no MDIB rule after Allen's death.

Clearly, naming the child as his designated beneficiary is the most tax effective course for Allen. Unfortunately, this choice utterly fails to achieve Allen's primary goal—to provide for Alice.

Scenario 2: How to provide for Alice and achieve some income tax deferral.

The best way to achieve the goal of providing for Alice is to name her personally as the designated beneficiary.

If she survives Allen, she can roll the benefits over to an IRA in her own name, then withdraw as much as she wants or needs to every year. She will be required to withdraw something each year from her rollover IRA once she reaches her required beginning date; assuming she names daughter Little Al as her designated beneficiary, her minimum required distributions will be calculated based on the joint life expectancy of herself and the child, as limited by the MDIB rule, or about 26 years. When she dies, the remaining balance will be distributed to Little Al over the remainder of Little Al's life expectancy. Thus if Alice survives Allen, the deferral period for the benefits will be shorter than if Little Al had been named *directly*

as Allen's designated beneficiary, but is still fairly generous.

If Alice dies before Allen and before Allen's required beginning date, Little Al will be considered Allen's designated beneficiary and the results will be the same as under scenario 1.

But what if Allen reaches his required beginning date, and names Alice as his designated beneficiary, and then Alice dies before Allen? Then all possibility of deferring income taxation of these benefits over the life expectancy of daughter Little Al is lost. The payout of the benefits will have to be completed over no longer than the joint life expectancy of Allen and Alice.

Thus, under scenario 2, the family gets the following result:

- Best financial protection for Alice.
- Income tax deferral will not be as favorable as under scenario 1; it will be "not bad" if Alice survives Allen but very limited if Alice predeceases Allen after his required beginning date.
- The estate tax result is terrible. The entire IRA will be included in Alice's estate. Adding this to her existing assets of \$650,000 will generate a big estate tax bill.

Scenario 3: How to eliminate estate taxes and still protect Alice.

Another approach is to name a credit shelter trust as beneficiary. This would achieve the estate tax goal, since the trust would keep the benefits out of Alice's taxable estate.

Alice can be the life beneficiary of the credit shelter trust; thus the retirement benefits will be available for her if she needs them, and the goal of "protecting Alice's financial security" *appears* to be achieved.

However, her financial security is not as well protected as it would be if the benefits were paid to her personally, because of the negative income tax effects of this form of disposition, namely:

1. To the extent benefits are paid to the credit shelter trust as principal, they will be taxed at the trust's income tax rate, which is probably going to be higher than Alice's. A trust is in the highest (39.6%) federal bracket for all taxable income over \$8,450 (1999 rates). As a human being, Alice will not hit that bracket unless she has more than \$283,150 of taxable income, which she is not likely ever to have.

2. Benefits will have to be distributed, beginning within one year after Allen's death, over Alice's life expectancy only, since she is the oldest beneficiary of the trust. If he dies right now, while she is 65, that would dictate a 20 year payout. This will produce a much more rapid distribution of the benefits than would be required if the benefits were payable to Alice personally. If Alice received the benefits personally and rolled them over to an IRA, she wouldn't have to take any distributions at all for five years (until she reaches age 70½); and she could then withdraw over the joint life expectancy of Alice and Little Al subject to the MDIB rule.

The faster-required withdrawals and higher income tax rate will mean less money available for Alice during her life than if benefits were paid to her personally.

The income tax drawbacks of the credit shelter trust continue after Alice's death. Because benefits paid to a trust of which she is the oldest beneficiary must be paid out over only her life expectancy, which is about 20 years now, there is no further deferral possible beyond 20 years. By contrast, with a rollover IRA established by Alice and payable to daughter Little Al as beneficiary, after Alice's death the payout could be made to Little Al over Little Al's life expectancy.

Estate tax savings of credit shelter trust

The estate tax savings from establishing a credit shelter trust with Allen's IRA will not be as great as they would be if Allen had non-"income in respect of a decedent" assets with which to fund his credit shelter trust. If we assume that the \$600,000 in the IRA will eventually be drawn down by the trust at an income tax cost of about 40%, or \$240,000, the net that is truly being preserved from estate taxes is only \$360,000 (the after tax value of the IRA), which produces estate tax savings of only about \$180,000. If Allen had a \$600,000 "regular" asset with which to fund his credit shelter trust, the estate tax savings would be more like \$300,000.

Higher income taxes on benefit paid to trust

After Allen's death, Alice will be in the 31% marginal federal income tax bracket, even if she withdraws \$35,000 a year or so from Allen's IRA. The trust will be in the 36% or 39.6% bracket for annual income over \$6,200/\$8,450.

C. The Solution Chosen

Despite the loss of estate tax savings, Allen decides that the best way to achieve his primary objective of providing for Alice's financial security is to name her directly as beneficiary of the IRA. That way, she can take advantage of the spousal rollover, defer all distributions until she reaches age 70½, and then take out the benefits gradually using the MDIB rule. The Ables will take the following steps to minimize estate taxes—and preserve the option for Alice to "reactivate" the credit shelter trust estate plan by means of a qualified disclaimer. Here are the steps they implement:

1. They divide their non-retirement plan assets equally between them, so that, regardless of which spouse dies first, *some* assets will go into the tax-saving credit shelter trust of the first spouse to die. Following this rearrangement, their assets look like this:

	<u>Allen</u>	<u>Alice</u>
House	150,000	150,000
Cash, marketable securities	150,000	200,000
Life Insurance	50,000	
IRA	<u>600,000</u>	<u> </u>
Totals	950,000	350,000

2. Although Allen wishes to name Alice directly as his primary beneficiary, he also wants to preserve the option for her to disclaim some of the benefits so they would after all pass to the credit shelter trust. She might choose to disclaim if, for example, her financial situation or the tax laws, at the time of Allen's death, had changed so that having the IRA pass to the credit shelter trust would no longer have a negative effect on her financial security. If such a disclaimer is to occur, Allen and Alice want to set up the estate plan so that it will be as easy as possible to implement the disclaimer.

This brings up two considerations: First, if Alice does not want to disclaim *all* of the benefits, but her disclaimer would cause the benefits to go directly into the credit shelter trust, then her disclaimer would have to contain a formula, whereby she disclaimed a certain fraction of the benefits. Drafting a disclaimer with a formula in it would be difficult in itself; and it might be even more difficult to persuade the IRA custodian to go along with a formula disclaimer.

The second consideration is that some retirement plan administrators have been known to refuse to accept *any* disclaimer at all, on the grounds that federal or state law or their own policy requires them to pay the benefits to the named beneficiary, period.

There is a way to sidestep all these difficulties: (a) name Allen's revocable trust as beneficiary of the benefits; (b) in the trust, direct that all retirement benefits are to be distributed outright to Alice; (c) but provide that, if she disclaims her option to take the benefits outright, the benefits pass through a fractional formula; and (d) under the fractional formula, the benefits will go to the credit shelter trust to the extent necessary to "fill it up," and the balance of the benefits will pass to the Marital Trust and thence to Alice outright.

In order to assure that Alice can roll over any benefits she does not disclaim, the beneficiary designation form directs the IRA custodian to transfer IRA benefits to Alice, outright, to the extent directed by the trustee of the revocable trust. This formulation relieves the custodian of the necessity of applying formulas or determining who is entitled to benefits under the trust. Even if for some reason the custodian refuses to comply with this direction, Alice can do a rollover of her share of the benefits by the following means: the trustee of the revocable trust withdraws the benefits from the IRA and distributes them to Alice, and she rolls them to her own IRA within 60 days.

3. The final step taken to minimize taxes is to structure the revocable trust and the credit shelter trust portion of it with retirement benefits in mind. This involves the following points: (a) the trust uses a fractional formula to divide assets between the marital and credit shelter shares (not a pecuniary formula); (b) the marital share is distributable outright to Alice—it is not a "QTIP"; (c) the credit shelter trust is drafted so as not to require the trustee to withdraw all income from the IRA each year, if that would be more than the minimum required distribution; and finally (d) the trust is drafted in a conservative manner to assure compliance with the IRS's "trust rules" in the proposed regulations (no non-individual beneficiaries, no spray powers, no powers of appointment).

II. Ken Koslow: A Second Marriage: Retirement Benefits and the QTIP Trust

A. The Facts

Ken Koslow is a 62-year-old executive. He has two children, ages 36 and 33. His wife, Karen, is also an executive; she is 54. Ken's assets consists of:

House - joint with spouse	\$ 450,000
Qualified plan	1,200,000
IRA	600,000
Non-plan investments	500,000
Life Insurance	<u>500,000</u>
Total	\$3,250,000

His plan is to leave his life insurance to his children, the house to his wife (it is already in joint ownership), and all of his retirement benefits to a QTIP marital deduction trust. The trust would pay income to Karen for life and on her death the balance would pass to his children.

B. The Problem

The problem with this proposal is that paying his retirement benefits to a marital trust has many disadvantages, namely:

1. **Distributions start immediately instead of being deferred until spouse reaches age 70½.** When the beneficiary is a trust, the minimum distribution rules require that distribution of the benefits begin in the calendar year after Ken's death.¹ When benefits are left *outright* to the surviving spouse, she can roll them over to an IRA and then defer the commencement of distributions until she reaches age 70½. Karen Koslow is an executive who already has a high income. She will probably have no need for money from this IRA until her own retirement 11 or more years from now. Thus, commencing distributions immediately following Ken's death wastes a deferral opportunity.
2. **Distributions during spouse's life will be based on a single life expectancy rather than a joint life expectancy.** Because the benefits are paid to a trust for Karen, instead of to Karen personally, the benefits will have to be paid out over a *single* life expectancy, namely, Karen's, because she is the oldest beneficiary of the trust. If the benefits were paid to Karen personally and she rolled them over to her own IRA, then, when she started to take distributions at age 70½, she could take them out over a longer

¹Although some private letter rulings have permitted, in the case of benefits payable to a trust of which the surviving spouse is the sole life beneficiary, deferral of the first required distribution until the year the decedent would have reached age 70½, the IRS's rulings are not all consistent on this point, so it is probably not advisable to count on this result.

period: the *joint* life expectancy of herself and a designated beneficiary. She would not be limited to just her own life expectancy. This is another reason why making benefits payable to a trust for the life of the spouse produces much less deferral, even during the spouse's lifetime, than making payments payable to the spouse personally.

3. **Marital deduction requires distribution of all income annually, even if that exceeds the "minimum required distribution."** The marital deduction rules require that all income of the IRA be distributed annually to Karen.² Thus, the marital deduction requirements do not allow even as much income tax deferral as the minimum distribution rules permit. This accelerated distribution is wasteful because Karen does not need or want this additional income for current spending. She would much prefer that the income be accumulated for later distribution to her. Sending her distributions *now* not only results in a loss of deferral, but also causes the benefits to be taxed in a much higher bracket; Karen will presumably be in a lower bracket after she retires than she is now. Possibly this problem could be overcome by giving her the right to demand the income, and providing that any such income she doesn't demand currently will be paid to her later upon demand, or, in the event of her death, paid to such beneficiaries as she shall designate.

4. **Loss of the ability to distribute benefits over the relatively long life expectancy of the participant's children.** If benefits were paid directly to Ken's children as beneficiaries, they could use their own life expectancy(ies) to measure required distributions of those benefits under the minimum distribution rules. When the benefits are paid to a trust of which they are only the remainder beneficiaries, however, the benefits have to come out based solely on Karen's life expectancy. The ability to use the long life expectancy of the children to measure the required payout of the benefits is forever lost.

5. **Benefits will be subject to higher income taxes.** The fifth drawback of making benefits payable to a marital trust has to do with the tax brackets applicable to trusts. To the extent distributions of "principal" are made from the retirement plans into the marital trust, they must be retained in the marital trust. (Distributions of "income" are distributed outright to the surviving spouse, of course.) Even though some distributions from the retirement plan are considered "principal" for purposes of trust accounting, and thus must be retained in the trust, they are still "taxable income" for purposes of the federal income tax. Thus, these benefits will be subject to the very high trust tax rates, resulting in an

²The IRS's apparent position, as evidenced by Revenue Ruling 89-89, 1989-2 C.B. 231, is that a retirement plan benefit payable to a marital trust will not qualify for the marital deduction unless the plan requires that all income of the plan benefit be distributed to the surviving spouse annually. This position appears contrary to the Treasury's own regulations, § 20.2056(b)-5(f)(8), under which the "all income" requirement of the Code is met so long as the surviving spouse has the right to demand that all income be distributed to her annually. This distinction makes no difference in the Koslow case, or any other "second marriage" situation, since the surviving spouse in such a situation could be expected to exercise the demand right.

income tax rate of 39.6% on most of the distributions. Most of Ken's children are not in the highest tax bracket; but the only way to take advantage of that is to make some benefits payable directly to them, rather than to a trust. Similarly, Karen, although she's in the 39.6% bracket now, will be in a lower bracket once she actually retires in 11 years or so. Thus, paying benefits to a trust often results in their being subjected to a higher rate of income tax than if they were paid to family members.

6. **Children probably have a long wait for a little money.** Ken and Karen Koslow are not close in age. Karen is only 18 years older than Ken's oldest child. Thus it is quite likely that Ken's children themselves will be "old" before they see anything from the marital trust. Karen's life expectancy is currently about 30 year. Thus the children can expect, based on average life expectancy, to wait 30 years before they get any benefits from their father's retirement plan; and at the end of this time they will get 60% of the original value. And in the meantime Karen and the children are left competing with each other regarding the investment policies of the trust.

C. The Solution

Using software, we project that the eventual value of the benefits to the family under this scenario (leaving all benefits to a QTIP trust) is \$5,526,000 after 30 years. (Assumptions are discussed in more detail later in this outline.) Of this amount, assuming Karen dies in 30 years, \$1,087,000 would pass to the children (being the then-remaining principal of the marital trust) and \$4,439,000 would be held by Karen's estate, (representing the accumulated distributions to her from the marital trust). There would be no dollars left inside the retirement plans.

This proposed scenario was compared with another alternative, "Scenario 2." Under Scenario 2 there would be no marital trust. The \$1.2 million of qualified plan benefits would be made payable to Karen personally, and the \$600,000 IRA would be payable directly to Ken's children. Ken would make sure his life insurance and investments outside the plan were sufficient to pay the estate taxes on the benefits passing to the children.

This scenario has many advantages over the QTIP scenario. Each beneficiary would have total control of his or her own share of the benefits, without having to compete for the attention of the trustee of the marital trust. The children could use their long life expectancies to measure required distributions of their benefits.

Karen could roll over her share of the benefits to an IRA in her own name and defer the commencement of distributions until she reached age 70½. She would name her own nieces as her designated beneficiaries on the rollover IRA. Her oldest niece is 30 years younger than Karen, so Karen will be able to measure her minimum required distributions using the MDIB rule.

No benefits would be subject to the high income tax bracket of a trust. The children would not have to be left wishing that Karen would die young. Karen would not have to feel the children are looking over her shoulder with regard to the investments of the marital trust.

Another advantage of this approach has to do with the practicalities of plan distribution options. Qualified retirement plans very often do not permit an installment payout to any beneficiary other than a surviving spouse. Thus, if qualified retirement plan benefits are made

payable to a marital trust, the plan may or may not permit the trust to draw those benefits out gradually over the life expectancy of the oldest trust beneficiary. If these benefits are made payable to Karen personally, by contrast, she can roll them to an IRA which has whatever payout distribution options she wants.

Furthermore, most qualified retirement plans are subject to the Retirement Equity Act of 1984 (REA), meaning that the benefits cannot be distributed to someone other than Karen (the surviving spouse) without her consent. By making the qualified plan benefits payable to Karen personally, you avoid the need for obtaining her consent, which would be required to make the benefits payable to a marital trust or some other beneficiary. Since REA does not apply to IRAs, Ken can make the IRA payable to his children without Karen's consent (subject to any requirements of state law or prenuptial agreements they may have signed).

Last but definitely not least: both Karen and the children would end up with *substantially more dollars* in their pockets, as the following pages demonstrate.

Assumptions

The following scenarios assume that all investments earn 7% pre-tax, whether inside or outside a retirement plan. Furthermore, these scenarios, for purposes of comparison, assume that all plan distributions, net of income taxes paid on such distributions, are accumulated rather than spent. This gives us a basis for comparing the different scenarios by the different values of the accumulated funds at the end of the 30 year projection period. Obviously, it is not very likely that the beneficiaries would actually accumulate 100% of the distributions; they would probably spend a substantial portion of the distributions. Nevertheless, in order to have valid comparisons, it is necessary to assume that no distributions are spent (or else incur the additional complication of building in fixed spending assumptions to each scenario).

Scenario 1: \$1.8 million of retirement benefits are left to a QTIP trust.

This trust distributes all of its income annually to Karen Koslow as required by the marital deduction rules. The benefits are distributed from the plans to the marital trust over the life expectancy of Karen Koslow (29.5 years). Each retirement plan distributes to the marital trust, each year, the greater of the income for that year or the minimum distribution amount required for that year. The *income* is then distributed to Karen personally; *principal* distributions (i.e. the minimum distribution amount to the extent it exceeds the income distribution) are retained in the trust fund as principal.

It is assumed that the trust and Karen are both in the 39.6% bracket for the next 10 years, when Karen retires. After 10 years, it is assumed that Karen's tax bracket would drop to 31%, but the trust would stay at 39.5%, so a compromise bracket of 36% is used.

After 30 years here are the results:

Amount held in a retirement plan in Karen's name: \$0.

Amount held in Karen's name personally (accumulated income distributions): \$4,439,000.

Amount held in the marital trust (passing to children): \$1,087,200
 (Gross of \$1,800,000 paid to marital trust, minus 39.6% tax)

Total value to family: \$5,526,000

Assuming Karen were to die at this point, the QTIP marital trust would pass to the children (actually, it would be subject to estate tax on Karen's death; however, for purposes of illustration, these scenarios assume that all estate taxes on both spouses' estates are paid by some other source of funds).

Scenario 2: The qualified plan benefits are paid to Karen personally, and the IRA is paid to the children.

One of Ken's children will probably be in the 31% bracket; the other would probably be in the 36% bracket. To compromise these differences, an overall tax rate of 33.5% on the children's benefits has been assumed. Furthermore it is assumed that Karen is in the 31% bracket for all distributions after she reaches age 65.

It is assumed that the IRAs would be distributed gradually to the children over the 46.4 year life expectancy of the oldest child. This would call for very small minimum distributions especially in the early years, but each child's income from this source would gradually increase. By the time the children reach their 60's, *each* would be receiving distributions of \$40,000 per year (and growing) from the IRA fund. It would be a major source of retirement funding for them.

It is assumed that Karen would take the plans payable to her out as a lump sum and roll them over to her own IRA. She would then defer all distributions until age her 70½, at which time she would name her young nieces as her beneficiary and start withdrawing benefits over the life expectancy of herself and the nieces, under the MDIB rule.

Under this scenario here is what each beneficiary would have in 30 years: The children's accumulated personal funds would be, for both children together, \$1,419,000. In addition, they would have \$1.509 million *still inside* the IRA, to be distributed to them over the next 17 years. Contrast this with their having \$1,087,000 outside of an IRA and *nothing* inside a retirement plan under Scenario 1. INCREASE IN VALUE TO CHILDREN: \$1,841,000.

Karen would have, in 30 years, accumulated \$2.771 million *outside* of her IRA from the accumulated required minimum distributions, and would still have \$4.164 million inside her IRA. Thus her combined value would be \$6.935 million, versus \$4.439 million under Scenario 1. INCREASE IN VALUE TO KAREN: \$2,496,000.³

³ Actually, the two scenarios are not quite comparable, because under Scenario 2 a substantial portion of Karen's and the children's money would still be inside an IRA and would not yet have been taxed, whereas under Scenario 1 all of the money would be after-tax. But, under Scenario 2, even if Karen totally liquidated her IRA 30 years from now (as opposed to continuing to distribute it gradually to herself over 15.3 more years), her after-tax value would be \$5.286 million, which is still \$847,000 *more* than under Scenario 1.

Summary: If all benefits are left to a marital trust, both the children *and* Karen are *substantially worse off* than if some benefits are left to Karen outright and some to the children outright.

	<u>Scenario 1:</u> Benefits to Marital Trust	<u>Scenario 2:</u> QRP to Karen; IRA to Children	<u>Increase:</u>
Karen holds:			
In IRA	-0-	4,164,000	
Outside IRA	<u>4,439,000</u>	<u>2,771,000</u>	
Total	4,439,000	6,935,000	2,496,000
Children hold:			
In IRA	-0-	1,509,000	
Outside IRA	<u>1,087,000</u>	<u>1,419,000</u>	
Total	1,087,000	2,928,000	1,841,000
Total value to family	\$5,526,000	\$ 9,863,000	4,337,000