

U.S. Supreme Court Grants Creditors Access to Your Inherited IRA

Due to a recent decision by the United States Supreme Court, inherited IRA assets are now fair game for creditors to pursue in bankruptcy court. On June 12, 2014, *Clark v. Rameker* resulted in a unanimous decision, ruling that funds held within inherited IRAs are not “retirement funds” and therefore do not qualify for exemption under federal bankruptcy laws.

To sum the decision into one sentence, inherited IRAs hold “funds that can be freely used for current consumption, not funds objectively set aside for one’s retirement.” In support of the positions, the Court Justices cited three key differences that inherited IRAs have from their traditional and Roth counterparts:

1. The holder of an inherited IRA may never contribute additional funds into the account.
2. Most holders of inherited IRAs are required to withdraw funds regardless of how far from retirement they may be; and
3. The holder of an inherited IRA may withdraw the entire balance of the account at anytime without penalty, whereas early withdrawals (before age 59 ½) from traditional or Roth IRAs may incur a 10% tax penalty.

In the wake of the *Clark* decision, it is now even more important for individuals to review and update their IRA beneficiaries and estate plans. Surviving spouses have a great deal of flexibility when it comes to inheriting IRAs as they have the option to either inherit or rollover an IRA upon their spouse’s passing. This ruling may possibly provide an extra incentive for a surviving spouse to rollover an IRA as opposed

to being designated the beneficiary for inheritance purposes.

Another strategy that may gain more popularity in order to circumvent the potential exposure to bankruptcy is to name a *trust* as the beneficiary of an IRA. However, one should consult his or her financial advisor and estate planner before employing this type of strategy as the tax implications can quickly become complex when naming a *trust* as beneficiary.

Finally, individuals reviewing IRA beneficiaries should consider other relevant laws in their states of residence. Currently seven states protect inherited IRA assets and treat them as exempt accounts in bankruptcy court. Those states are Alaska, Arizona, Florida, Missouri, North Carolina, Ohio, and Texas.

To read the full published opinion in *Clark v. Rameker*, 134 S. Ct 2242 (June 12, 2014), please visit the United States Supreme Court’s website at www.supremecourt.gov.

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