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5.1 Roth Plans: Various Matters

5.1.03 Abusive Roth transactions

TCJA UPDATE: TCJA affected no change to the main discussion of “abusive” Roth transactions, but there are TCJA updates on two types of Roth transactions mentioned in ¶ 5.1.03: See ¶ 5.4.04(D) regarding “back door” Roth conversions, and ¶ 5.6.05 regarding converting one IRA to multiple Roth IRAs to facilitate recharacterizing only losing investments.

5.1.04 Roth options for surviving spouse-beneficiary

Regarding the following sentence:

B. Roth conversion from nonIRA plan by surviving spouse. ... Having converted an inherited traditional plan or IRA to a Roth IRA, the surviving spouse would have the same option as other Roth-converters to recharacterize the conversion (¶ 5.6).

TCJA UPDATE: The option to recharacterize has been eliminated for all taxpayers including surviving spouses. See ¶ 5.6.02A.

5.1.05 Deductibility of Roth IRA management expenses

TCJA UPDATE: Since the § 212 deduction for investment management fees has been eliminated for individuals by the TCJA for the years 2018-2025, the discussion in this section about whether fees for management of Roth IRA management fees are deductible is moot for individuals for those years.

5.2 Roth IRAs: Minimum Distribution Aspects

TCJA UPDATE: TCJA made no changes affecting the discussion in ¶ 5.2 except the following:

5.2.05 RMD adjustment for recharacterized Roth conversions

Since, after 2017, under TCJA, Roth conversions can no longer be recharacterized (see ¶ 5.6.02A), the discussion in this section will have no further application.

5.4 How to Fund a Roth IRA; Regular Contributions

TCJA UPDATE: TCJA made no changes affecting the discussion in ¶ 5.4 except: Add the following statement after ¶ 5.4.04(D):
5.4.04 Who may make a “regular” Roth IRA contribution

... D. Traditional IRA contribution followed by conversion. An individual who is under age 70½ and who is prevented from making a regular contribution to a Roth IRA due to the income limit can make a regular contribution to a traditional IRA, then convert that to a Roth IRA. This anomalous situation arises because there is an income ceiling applicable to regular Roth IRA contributions but no income ceiling applicable to either traditional IRA contributions or Roth conversions....

TCJA UPDATE: The Conference Committee confirms that such “back-door” Roth contributions are legal—under both prior law and the TCJA. The Explanatory Statement states four times that, “Although an individual with AGI exceeding certain limits is not permitted to make a contribution directly to a Roth IRA, the individual can make a contribution to a traditional IRA and convert the traditional IRA to a Roth IRA....” See the “Joint Explanatory Statement of the Committee of Conference,” footnotes 268, 269, 276, and 277. This should put an end to skepticism about back-door Roth contributions.

5.5 Conversion of Traditional Plan or IRA to a Roth IRA

TCJA UPDATE: TCJA made no changes significantly affecting the discussion in ¶ 5.5. The following minor changes are required to reflect the new law:

5.5.02 Who may convert: age, plan participation, income, etc.

... C. Prior conversion. There is generally no limit on the number of times a participant can convert all or part of any traditional plan or IRA to a Roth IRA; see ¶ 5.5.06. The only exception applies in the case of someone who has unconverted (recharacterized) and then wants to reconvert the same amount; see ¶ 5.6.08.

TCJA UPDATE: Since the option to recharacterize a Roth conversion has been eliminated (see ¶ 5.6.02A), the ban on too-soon “reconversions” will be obsolete.

5.5.03 Tax treatment of converting traditional IRA to Roth IRA

... C. Realizing a loss on a Roth conversion. A transfer from a traditional to a Roth IRA is taxed as if it were a distribution that was not rolled over. § 408A(d)(3)(A)(i).

TCJA UPDATE: If you close out all your IRAs, and the net amount thus distributed to you [or deemed distributed to you, in the case of a conversion of all your traditional IRAs to Roth IRA status] is less than your “basis” in those accounts (i.e., less than the amount of your after-tax contributions to the accounts), the IRS position is that the loss you have thus realized is deductible only under IRC § 212, “Expenses for production of income.” As such, the loss is a “miscellaneous itemized deduction” subject to IRC § 67(a), meaning that (prior to 2018) the loss was deductible only to the extent the total of such loss and your other “miscellaneous itemized deductions” exceeded 2% of your adjusted gross income.

Under TCJA, deductions formerly subject to the 2% floor become completely nondeductible...effectively the 2% floor becomes a 100% floor. Thus, such a loss upon cashing out (or converting) all your IRAs will not be deductible at all for the years 2018–2025. Someone affected by this change might challenge the IRS classification of the transaction as an IRC § 212 deduction, and try to claim the loss under a different Code section, such as capital losses. The problem is, the Code says IRA distributions are taxable under IRC § 72, and § 72 has no provision for losses.

5.5.07 Mechanics of conversion from other traditional plans

TCJA UPDATE: No change to ¶ 5.5.07. Though included in some drafts of the bill, TCJA as enacted did NOT lower the minimum age for “retirement distributions” under qualified retirement plans (§ 401(a)(36)).

5.6 Recharacterizing an IRA or Roth IRA Contribution

TCJA UPDATE: The most significant change TCJA made regarding our clients’ retirement benefits is the elimination of the right to undo (“recharacterize”) a Roth IRA conversion. In ¶ 5.6 of the Outline, the “WARNING!” paragraph is deleted, and ¶ 5.6.01–¶ 5.6.02 are ENTIRELY RESTATED as ¶ 5.6.01–¶ 5.6.02A, as follows:
5.6.01 Recharacterization: Introduction and overview

The Code allows a taxpayer who has made “any contribution to an individual retirement plan” [except, after 2017, a “conversion contribution”; see ¶ 5.6.02A] during a particular taxable year to move that contribution to “any other individual retirement plan.” If the transfer meets certain requirements, the contribution is treated, for all purposes of the income tax code, as if it had been originally made to the second (transferee) IRA—“Except as provided by the Secretary.” § 408A(d)(6)(A). The IRS has issued Reg. § 1.408A-5 governing (and limiting) such transfers.

The Code calls these transfers “adjustments.” The IRS and this book call them “recharacterizations.” § 408A(d)(6) both (1) allows taxpayers to change their minds about their IRA contribution or [prior to 2018] conversion and (2) enables them to fix mistakes.

The most common use of recharacterization, prior to 2018, had been to undo a Roth IRA conversion: A taxpayer who had converted a traditional IRA or plan distribution to a Roth IRA could (under § 408A(d)(6) as it existed prior to 2018) undo the conversion, thereby avoiding the income tax that otherwise would have been due on the Roth conversion. That option has been eliminated. See ¶ 5.6.02A. (Note: “In-plan” conversions were never eligible to be recharacterized; see ¶ 5.7.03.)

5.6.02 IRA contributions that may be recharacterized (or not)

A “regular” contribution (¶ 5.4.02) made to either type of IRA (traditional or Roth) for a particular year may be recharacterized as a contribution to the other type. Reg. § 1.408A-5, A-10, Examples 2, 3.

Though the IRS’s example of recharacterizing a “regular” contribution deals with a small annual-type regular contribution, remember that the IRS considers every IRA contribution that does not qualify as a valid “rollover contribution” to be a “regular contribution”—even if the contribution exceeds the annual IRA contribution limit. See, e.g., Reg. § 1.408A-4, A-6(c). Thus, recharacterization should be considered whenever a botched IRA rollover occurs as it may provide a way to fix the problem. See ¶ 5.6.09.

Not every IRA contribution can be recharacterized. Here are IRA contributions that can NOT be recharacterized:

1. If money has been rolled over from a traditional retirement plan into a traditional IRA via a tax-free rollover (whether by direct rollover or 60-day rollover), the taxpayer cannot later change his mind and “recharacterize” that as a Roth conversion by moving the rolled amount to a Roth IRA. “[A]n amount contributed to an IRA in a tax-free transfer cannot be recharacterized.” Reg. § 1.408A-5, A-4. A participant (but not a beneficiary) can convert, to a Roth IRA, the traditional IRA he has created via this tax-free rollover; he just cannot make such conversion “retroactive” to the original tax-free rollover from the plan to IRA #1.

2. Similarly, a tax-free transfer or rollover from one traditional IRA into another cannot be recharacterized as a Roth conversion. Reg. § 1.408A-5, A-10, Example 4.

3. Employer contributions to a SEP or SIMPLE IRA may not be recharacterized as contributions to a Roth IRA, because the employer could not have made direct contributions to a Roth IRA in the first place. Reg. § 1.408A-5, A-5. But the employee may be able to convert the SEP or SIMPLE account to a Roth IRA; see ¶ 5.5.01(A).

4. A recharacterized contribution apparently cannot be recharacterized again, because the decision to recharacterize cannot be revoked once the transfer to “IRA #2” has occurred. Reg. § 1.408A-5, A-6(b).

5. After 2017, the valid rollover or transfer contribution to a Roth IRA of a distribution from a traditional plan or IRA (i.e., a “conversion contribution”) may not be recharacterized as a contribution to a traditional IRA. See ¶ 5.6.02A. However, though valid Roth conversions may no longer be recharacterized, invalid (“failed”) conversions (¶ 5.5.05) may still be recharacterized. Regs. § 1.408A-4, A-3(a), § 1.408-8, A-8(b).

5.6.02A Recharacterization of Roth conversions eliminated after 2017

Throughout the 20-year existence of Roth IRAs, until 2018, the Roth IRA converter has had a unique privilege—the option to change his mind and reverse the conversion, until the extended due date (see ¶ 5.6.07 for definition) of his tax return for the conversion year.

The TCJA eliminates the right to undo a Roth IRA conversion. The following new subclause “(iii)” has been added to § 408A(d)(6)(B): “(iii) Subparagraph (A) shall not apply in the case of a qualified rollover contribution to which subsection (d)(3) applies (including by reason of subparagraph (C) thereof).” In English, § 408A(d)(6)(A) (permitting recharacterization of IRA contributions) shall not apply to Roth conversion contributions that are either rollovers from non-IRA non-Roth retirement plans.
or are transfers from traditional IRAs. So, for Roth IRA conversions in 2018 and later, there will be no option to “recharacterize” the conversion; all Roth conversions will be irrevocable.

What’s not clear yet is how TCJA impacts 2017 conversions. Under pre-TCJA law, the 2017 conversion of a traditional plan or IRA to a Roth IRA would have been reversible (i.e., the converter would have been entitled to “recharacterize” it) until October 15, 2018 (assuming the individual timely filed her 2017 income tax return; see ¶ 5.6.07). The provision of TCJA disallowing recharacterization for a Roth IRA conversion contribution “shall apply to taxable years beginning after December 31, 2017.” Some practitioners read this to mean that the ban applies to Roth conversions that occur after 2017—meaning that conversions that occurred in tax year 2017 can still be reversed until the 10/15/18 deadline. Other practitioners read the law as simply banning, after 12/31/17, the recharacterization of any Roth conversion, regardless of when such conversion occurred. Under this more pessimistic reading TCJA effectively accelerated the recharacterization deadline for 2017 conversions from 10/15/2018 to 12/31/17. If this reading prevails, it’s a bit rough on 2017 converters who reasonably understood and believed, when they did their conversions, that they had until October 15, 2018, to change their minds. It seems likely that few such 2017 converters could have learned of the accelerated deadline in time to act on it.

If it turns out that the “pessimistic” reading is correct, is there any way a 2017 converter can recharacterize in 2018? There is a process under IRS regulations, nicknamed “9100 relief,” for obtaining extension of a tax deadline if various (extensive) requirements are met—but the cost of obtaining such relief on an individual basis starts with a $10,000 filing fee and goes on to include legal fees, delay, etc. See Treas. Reg. § 301.9100-1 et seq., and ¶ 5.6.07(C).

The IRS might be able to solve this mess by administrative action...either by adopting the interpretation that the ban on recharacterizing Roth conversions applies only to post-2017 conversions, or perhaps by granting some type of blanket extension or “9100 relief” to 2017 converters. We must wait and see.

5.6.03 **How to recharacterize an IRA contribution**

TCJA UPDATE: No change, except that references to recharacterizing a Roth conversion apply to pre-2018 years only.

5.6.04 **Income allocable to the contribution**

TCJA UPDATE: References to recharacterizing a Roth conversion apply to pre-2018 years only.

Also, the following paragraph of ¶ 5.6.04 is not applicable to post-2017 Roth conversions: “Because Method 1 is much simpler to apply than Method 2 (below), there is an advantage to keeping each year’s Roth IRA conversion contributions in a separate Roth IRA account (not commingled with any pre-existing Roth IRA), until the period has expired for recharacterizing such contributions (¶ 5.6.07).”

Also, delete the “Fouad Example”; it is not applicable to post-2017 Roth conversions.

5.6.05 **Partial recharacterizations**

TCJA UPDATE: ¶ 5.6.06 is restated in its entirety as follows:

Recharacterizations are not an all-or-nothing thing; partial recharacterizations are permitted. Reg. § 1.408A-5, A-1(a). The regulation’s definition of the “income” on the account (the income that must be transferred to a different IRA along with the contribution being recharacterized; see ¶ 5.6.04) is based on the appreciation and depreciation of the entire account, not of particular assets you might choose to recharacterize. Reg. § 1.408A-5, A-2(c)(6), Example 2.

Prior to 2018, if an individual converted his IRA to multiple Roth IRAs, the regulations appeared to permit him to “unconvert” one or more of the multiple Roths without undoing all of them. See Reg. § 1.408A-5, A-1. Thus, a client pre-2018 might consider converting his IRA into several Roth IRAs, with portfolio assets whose values were less likely to move in tandem placed into separate Roth IRAs. That way, if one asset class declined in value prior to the deadline for recharacterizing the account, he could recharacterize (undo his conversion as to) just the Roth IRA that holds that asset class, and leave the other Roth IRAs alone. It is believed that IRS/Congressional disapproval of this “gaming” strategy contributed to the decision to disallow altogether the recharacterization of Roth conversions.

5.6.06 **Deadlines for Roth IRA contributions, conversions**

No changes.
5.6.07 **Recharacterization deadline: Due date “including extensions”**

TCJA UPDATE: Delete subparagraph 2 and all other references to recharacterizing a Roth IRA conversion. Conversion contributions may no longer be recharacterized. See ¶ 5.6.02A.

5.6.08 **Same-year and immediate reconversions banned**

TCJA UPDATE: Since Roth conversion contributions may no longer be recharacterized (see ¶ 5.6.02A), the rule against "reconverting" recharacterized Roth conversions "too soon" becomes moot.

5.6.09 **Using § 408A(d)(6) to fix mistakes**

TCJA UPDATE: Although earlier drafts of the law would have repealed § 408A(d)(6) entirely, thus eliminating ALL recharacterizations of IRA contributions, the final version as enacted bans recharacterizations only for Roth IRA conversion contributions; see ¶ 5.6.02A. Thus, TCJA, as finally enacted, does not ban recharacterization of IRA contributions as a method of fixing mistakes, provided the original contribution was not valid Roth conversion. Accordingly, this section remains valid. It is restated here as follows:

A § 408A(d)(6) transfer (recharacterization) can be used to cure certain mistakes. Here are mistakes known to be “fixable” by recharacterization:

- Recharacterizing a Roth conversion that the would-be converter was not eligible to make is the most common example. Prior to 2010, an income ceiling test applied to Roth conversions. Many individuals who did Roth conversions prior to 2010 actually were not eligible because of this income ceiling, but either did not know about the ceiling, or thought it was higher than it was, or “passed” the test at the time of the conversion but later “flunked” it due to later-discovered income or adjustments on their tax return due to IRS audit. These individuals had to use § 408A(d)(6) to recharacterize their unlawful Roth conversions. See Reg. § 1.408A-5, A-10, Example 1. In many cases the IRS allowed them to do this even after the deadline; see ¶ 5.6.07(C).

- An employer contribution to a SEP or SIMPLE plan cannot, itself, be converted to Roth IRA status by means of a recharacterization. ¶ 5.6.02. If such a “conversion” is mistakenly done, it can be corrected by recharacterizing the wrongly-transferred amount back into the SEP or SIMPLE. Reg. § 1.408A-5, A-5.

- Any “failed” Roth conversion (e.g., if someone converted an “amount” to a Roth IRA too soon after recharacterizing a conversion of the same “amount”; see ¶ 5.6.08) can be recharacterized. Reg. § 1.408A-4, A-3(a). Since recharacterization of Roth conversions cannot occur after 2017 (see ¶ 5.6.02A), the “mistake” of a “too-soon reconversion” will no longer be applicable.

- A person who wants to roll over an IRA distribution to an IRA, but is barred from doing so by the one-IRA-to-IRA-rollover-per-12-months rule (¶ 2.6.05), can achieve his desired result by instead rolling his distribution into a Roth IRA (Roth conversion). However, after 2017, he will be stuck with the taxable Roth conversion because he will not be able to recharacterize that conversion contribution into a traditional IRA. See ¶ 5.6.02A. That nifty move was permitted pre-2018 due to the rule that “A recharacterization is “never treated as a rollover for purposes of the one-rollover-per-year limitation…, even if the contribution would have been treated as a rollover contribution by the…[transferee] IRA if it had been made directly to the” transferee IRA in the first place. Reg. § 1.408A-5, A-8.

- SIMPLE IRAs cannot legally receive rollovers or transfers from other IRAs. “...[I]f an amount is erroneously rolled over or transferred from a traditional IRA to a SIMPLE IRA, the contribution can subsequently be recharacterized as a contribution to another traditional IRA.” Reg. § 1.408A-5, A-4; PLR 2014-46036. Note that recharacterization in this case does not involve moving money between Roth and traditional IRAs—the transfer is between two traditional retirement accounts.

An intriguing possibility is the use of § 408A(d)(6) when an eligible rollover distribution is mistakenly deposited into the wrong IRA. For example, husband retires and requests a direct rollover to his IRA; by mistake the money is deposited in wife’s IRA. Or a Designated Beneficiary requests a direct rollover of an inherited 401(k) plan death benefit (see ¶ 4.2.04); by mistake the rollover lands in the beneficiary’s own IRA rather than an inherited IRA. It appears this type of mistake could be
“fixable” with a § 408A(d)(6) transfer into the correct IRA, provided the transfer includes the applicable net earnings and is completed by the applicable deadline, so that the contribution is deemed originally made to the transferee (second) IRA.

In PLR 2012-46044, an IRA customer had multiple IRAs, one of which was an inherited IRA that was not correctly titled as an inherited IRA. Because of that mistake, money was inadvertently rolled from two of his noninherited IRAs into the inherited IRA (failed rollover). The mistake was discovered later and the IRS granted a waiver of the 60-day rollover deadline to allow the taxpayer to roll the original IRA distributions into another IRA (one correctly titled as a noninherited IRA). If the taxpayer had used § 408A(d)(6), to recharacterize the erroneous contribution to the inherited IRA as a contribution to a noninherited IRA, he would have been able to move the post-contribution earnings as well as the contribution itself into the proper type of IRA.

But this application of § 408A(d)(6) has not been reported in any published source. The argument in favor of it is, § 408A(d)(6) says that any transfer from one IRA to another (if made within the required time frame and accompanied by its “net earnings”) (except, post-2017, a Roth conversion contribution) is deemed to have been contributed to the second (transferee) IRA “except to the extent otherwise provided by the Secretary of the Treasury.” The IRS has not issued any pronouncement prohibiting § 408A(d)(6) post-death transfers from the beneficiary’s own IRA to an inherited IRA. On the contrary, the IRS’s regulation says that “an individual” who makes an IRA contribution, and transfers the contribution to a second IRA (within the required time frame and accompanied by earnings) can elect to have the contribution treated as contributed to the second IRA “except as otherwise provided in this section”—and the “section” does not prohibit this type of transfer. Reg. § 1.408A-5, A-1(a).

The IRS’s only pronouncement touching near the subject is (in connection with nonspouse beneficiary direct rollovers from a nonIRA plan; ¶ 4.2.04) that “If an amount distributed from a plan is received by a nonspouse beneficiary, the distribution is not eligible for rollover.” IRS Notice 2007-7, 2007-1 CB 395, A-15; emphasis added. So if the inherited QRP amount is actually sent to the beneficiary’s taxable account, the distribution cannot be rolled over. This wording in Notice 2007-7 seems to leave the door open for a § 408A(d)(6) recharacterization/corrective transfer, if the plan distribution was not “received by” the nonspouse beneficiary, it was always inside some kind of retirement account—just, temporarily, the wrong type of account.

The argument against this interpretation is that, in another context (purported Roth conversion of a distribution that was not eligible for rollover), the IRS treats the improper rollover as a distribution followed by a “regular” contribution of the rollover-ineligible amount to the recipient’s own IRA. Reg. § 1.408A-4, A-6(c); see ¶ 5.2.04. If the IRS were to apply the “deemed distribution” rule in the context of the transfer of an inherited plan or IRA benefit to the incorrect type of account, § 408A(d)(6) would not work because the contribution that would need to be recharacterized is the beneficiary’s “deemed” contribution, not the direct rollover that went from the inherited qualified plan or IRA into the wrong account...and since the beneficiary could not properly have contributed to an inherited IRA, “deeming” his contribution to have gone into that account doesn’t help.

However, the IRS has not to date stated that a direct rollover or transfer, into the wrong account, of an amount that is eligible to be rolled or transferred is automatically treated as a distribution. On the contrary, the regulation says that a failed Roth conversion is treated as a distribution only if the improper contribution is not recharacterized. Reg. § 1.408A-4, A-3(b).

Unlike the situation where the rollover or transfer is proper except for landing in the wrong account, treating the improper conversion of the RMD amount as a deemed distribution helps the taxpayer (by avoiding imposition of excise tax for failure to take the RMD; ¶ 1.9). Since the taxpayer would have to pay income tax on this “deemed” distribution in any event, he is not harmed by losing out on the rollover he wasn’t eligible to make in the first place. But applying that automatic-deemed-non-fixable-distribution rule to a misdirected rollover/transfer that never leaves the retirement plan environment would produce harshly unfavorable results for the individual whose legal rollover or transfer merely went to the wrong account.

5.7 Designated Roth Accounts

TCJA UPDATE: The new tax law made no changes affecting this ¶ 5.7, except that references to recharacterizing Roth IRA conversions are now obsolete (¶ 5.6.02A).

5.8 Roths and Pre-Age 59½ Distributions (10% Tax)

TCJA UPDATE: TCJA made no changes directly affecting anything in this ¶ 5.8, except delete ¶ 5.8.02(B)—it is obsolete after 2017.

5.9 Roth Planning Ideas and Principles

TCJA UPDATE: TCJA made no changes affecting the statements in ¶ 5.9, except for the following minor changes in ¶ 5.9.06:
5.9.06 **Roth plans and the estate plan**

TCJA UPDATE: Delete reference to Appendix D and, restate subparagraph B as follows:

**B. Document changes needed to anticipate Roth actions.** The client’s durable power of attorney should give the holder the power to convert any traditional plan or IRA to Roth status and to recharacterize any IRA contribution made by the client. Since the client’s executor will no longer (after 2017) have the power to recharacterize a Roth IRA conversion made by the client (see ¶ 5.6.02A), there is no need for the client’s estate plan to deal with this possibility.

5.9.07 **Roth conversion tips from all over**

TCJA UPDATE: ¶ 5.9.07 contained planning ideas A through R. Several of them assumed the ability to recharacterize a Roth conversion; those are restated as follows:

**B. Convert everything now, analyze later.** Delete this idea! No longer valid since Roth conversions can no longer be recharacterized; see ¶ 5.6.02A.

**G. Keep a Roth and traditional IRA open at same firm.** Open the client’s Roth IRA at the same firm that already holds the client’s traditional IRA. Then the conversion will be easy and instantaneous. Moving money from one firm to another takes much longer than moving money between two accounts at the same firm. The drawback of having both traditional and Roth IRAs at the same firm is the occasional tendency of IRA provider firms to put deposits into (or take withdrawals from) the wrong account.

**H. Take RMD before converting.** An IRA owner who is attaining age 70½ in the year of the proposed Roth conversion, or who attained that age in an earlier year, must take his RMD for the conversion year out of his traditional IRA BEFORE he converts all or part of the rest of the account to a Roth IRA. ¶ 5.2.04.

**M. Fulfill estimated tax obligations.** A Roth conversion will usually increase the client’s income (and income tax) for the conversion year. The exceptions are, if the conversion consists primarily of after-tax money; or if the entire conversion is recharacterized, or if the conversion-income is totally offset by some type of loss deduction.

Normally income tax (if not withheld) must be paid in the form of four equal estimated tax payments throughout the year, but there is a safe harbor escape hatch: As long as an individual pays 100 percent of his prior year’s tax in the form of quarterly estimated taxes (or 110%, in the case of high-income taxpayers), the individual is “excused” from paying the full estimated tax in advance. Most people should use this exception to avoid paying the estimated income tax on the conversion before they have to. As a reminder, any later increase in the “prior year’s tax” (as a result of an audit for example) could cause loss of the client’s qualification for this exception.

Another approach to the estimated tax obligation is to pay the tax not in level quarterly instalments, but in instalments that vary in amount depending on the individual’s actual income and deductions during the period covered by the instalment. If using this method, this author assumes that the income resulting from a Roth conversion would be deemed “received” in the month that the distribution that was converted is made, but some advisors treat it as received ratably throughout the year. Finally, if the Roth conversion results in a big one-year “bump” in income, it will be expensive in the year following the conversion to use the 100%/110%-of-prior-year’s-tax approach to paying estimated taxes.

**N. Extend the return (but pay tax by April 15th).** Delete this idea—no longer valid since recharacterization of Roth conversions has been eliminated (¶ 5.6.02A).

**O. File the tax return on time.** Though filing your tax return on time is always a good idea, this idea is no longer “specially relevant” for Roth converters since recharacterization of Roth conversions has been eliminated (¶ 5.6.02A).

**P. Put each year’s conversions into a separate Roth IRA.** Delete this idea—no longer valid since recharacterization of Roth conversions has been eliminated (¶ 5.6.02A).

**Q. Convert different asset classes to different Roth IRAs.** Delete this idea—no longer valid since recharacterization of Roth conversions has been eliminated (¶ 5.6.02A).
R. ★ Keep the tax money in a safe place. Once a client does a Roth conversion, the client has incurred a debt to Uncle Sam for the income tax on that conversion. The money to pay that debt should be set aside in a very safe place such as insured CDS, or perhaps even be sent to the IRS as estimated taxes. The client should not spend the money, give it away, or invest it in such a way as to risk losing it. It’s true the client has a certain period of time to undo the conversion by recharacterization (¶ 5.6), but he should not want to risk being forced to recharacterize because he “blew” the income tax money.

5.9.08 Roth planning ideas that do not work

TCJA UPDATE: These ideas were not recommended to start with, and now are in some cases doubly inapplicable since recharacterization of Roth conversions is no longer allowed (¶ 5.6.02A).

Appendix A: Thoughts from Expert Planners

TCJA UPDATE: The planning ideas in Appendix A did not depend on recharacterization of Roth conversions and accordingly remain valid after TCJA.

Appendix B: Articles of Interest

TCJA UPDATE: Some of the articles cited in Appendix B may have presumed the ability to recharacterize Roth conversions and accordingly may not to that extent be valid after TCJA. See ¶ 5.6.02A.

Appendix C: Roths for the Rest of Us

TCJA UPDATE: The planning ideas in Appendix C did not depend on recharacterization of Roth conversions and accordingly remain valid after TCJA.

Appendix D: Proposed Changes in the Tax Law

TCJA UPDATE: The Outline was up to date as of November 2017 and contemplated potential change in the law as then under discussion in Congress. As finally enacted, the “Tax Cuts and Jobs Act” did not follow the draft under discussion in 2017. Its only significant change affecting this Outline was elimination of the ability to recharacterize (undo or reverse) a Roth IRA conversion; see ¶ 5.6.02A. This change necessitated minor conforming changes throughout the Outline. Other TCJA changes that impact statements in this outline have been noted in the applicable affected sections.

Note that the Tax Cuts and Jobs Act did NOT make any changes to the “minimum distribution rules,” despite a number of legislative proposals in recent years to replace the life expectancy payout with a “5-year rule” for most retirement plan death benefits or to require lifetime RMDs for Roth IRAs.