Leimberg Information Services, Inc.

Steve Leimberg's Income Tax Planning
Email Newsletter Archive Message #192

Date:18-Feb-20

Subject: Ed Morrow - Using BDOTs for Optimal Asset Protection and Income Tax Minimization After Passage of the Secure Act

"The ten-year rule applicable to most trusts that will receive retirement benefits now after passage of the SECURE Act presents a dilemma for non-Roth accounts. In planning for the 99% of taxpayers whose income level does not rise to the top income tax bracket, leaving such assets in trust increases the income tax rate substantially. It may be 2-3 times as high under the compressed trust income tax brackets.

Distributing the income out of a trust can save income tax, but this destroys the asset protection benefits of the trust. Advisors (not to mention beneficiary-trustees) will invariably recommend trust distributions to carry out distributable net income (DNI) in order to save income taxes. Thus, even if the trust is an 'accumulation trust,' it will function for all practical purposes as a conduit trust, limiting the estate tax sheltering and asset protection for those assets to only 10 years as well.

If only we could find an effective way to shift the income tax to those beneficiaries who are usually in a much lower tax brackets, without destroying the estate/gift/GST and asset protection benefits of the trust! A beneficiary deemed owner trust (BDOT) can do just that."

Ed Morrow provides members with commentary that examines the use of BDOTs for optimal asset protection and income tax minimization after the SECURE Act. Members who would like to learn more about this topic should consider watching Ed and **Bob Keebler**'s upcoming **LISI** Webinar titled "**The SECURE Act's Three Leading Fiduciary Trust Income Tax Planning Strategies**" on Thursday February 20th at 11:00 AM EDT - 12:30 PM. Click this link to learn more or to register: **Ed Morrow & Bob Keebler**.

Additionally, **LISI** contributor **Steve Gorin** will cover options to create BDOTs as to IRA distributions, among other topics and ideas in his

upcoming **LISI** Webinar titled "**Drafting Under the SECURE Act**" on Friday, February 28th at 11:00 AM EDT. Click this link to learn more or to register: Steve Gorin

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Now, here is Ed Morrow's commentary:

EXECUTIVE SUMMARY:

The ten-year rule applicable to most trusts that receive retirement benefits after the SECURE Act presents a dilemma for non-Roth accounts. In planning for the 99% of taxpayers whose income level does not rise to the top income tax bracket, leaving such assets in trust increases the income tax rate substantially. It may be 2-3 times as much under the compressed trust income tax brackets. One solution is to distribute the income out of a trust to save income tax, but this destroys all the asset protection benefits of a trust.

Advisors (not to mention beneficiary-trustees) will invariably recommend trust distributions to carry out distributable net income (DNI) to save income taxes for the family overall. Thus, even if the trust is an "accumulation trust", it will function for all practical purposes as a conduit trust so that estate tax sheltering and asset protection for those funds only exist for 10 years.

If only we could find an effective way to shift the income tax to those beneficiaries who would usually be in lower tax brackets than the trust, without destroying the estate/gift/GST and asset protection benefits! This newsletter will explore how a beneficiary deemed owner trust (BDOT) can do just that.

COMMENT:

Flaws of Existing See Through Trusts After Passage of the Secure Act

"See through trusts," those designed to qualify as designated beneficiaries for purposes of determining distribution periods after the death of the owner, come in two basic varieties: conduit trusts and accumulation trusts.[1]

Both of these should be re-examined in light of whether the owner/settlor's goals lean towards asset protection or income tax avoidance. This newsletter will largely omit discussion of "eligible" designated beneficiaries who may still come under the old rules ("EDBs" include surviving spouses, disabled, chronically ill, minor children of the owner until age of majority or beneficiaries not more than 10 years younger).[2]

The popular wisdom is that conduit trusts will always be a disaster after the passage of the Secure Act. This is not necessarily true, though some may be. Some accumulation trusts might *also* now be a disaster. It depends on the clients' goals and situation, and how flexible the trusts are.

Conduit trusts and trusteed IRAs drafted so as to ONLY pay RMDs (and no more) could be an income tax disaster. If the owner dies before their required beginning date, all the funds would come out in the 10th year into the trust and then out to the beneficiary, allowing no use of the beneficiaries' lower tax brackets by distributing funds more gradually before then. Unless the beneficiary is in the 1% of taxpayers in top tax bracket, this is a disaster for any larger amounts, since the lower tax brackets were not efficiently used. The lack of distributions in years 1-9 may also be very problematic for non-tax reasons.

Most conduit trusts and trusteed IRAs, however, are drafted with much more flexibility (e.g. pay RMDs, plus more at the trustee's discretion). Moreover, this tax issue may disappear once an owner passes their required beginning date, since treasury guidance is likely to allow the trust to use the "at least as rapidly" rule (a.k.a. "ghost" life expectancy of the decedent), and even if they do not, it's extremely easy to disqualify a trust from being considered a designated beneficiary.

Thus, conduit trusts and trusteed IRAs are rarely going to be an income tax disaster (in fact, they may often be the opposite, since they ensure that no income is trapped in trust). The problem with conduit trusts is usually not the income tax ramifications, but that all the funds are leaving the trust over ten years (or potentially slightly longer, under a ghost life expectancy as discussed above), which completely eviscerates the estate/gift/GST and other asset protection benefits of the trust. Is it worth even bothering with a

trust for only ten years of protection? Many taxpayers would be tempted to simply leave the funds outright if that were the only alternative.

Current accumulation trusts may be an income tax disaster as well if they have conservative distribution standards, and/or lack any lifetime limited powers of appointment or spray powers. Retirement plan distributions in many cases may be trapped in trust at the highest trust compressed tax bracket (currently 37%, but Congress may always increase this again).

Rate	For Single Individuals, Taxable Income Over	For Married Individuals Filing Joint Returns, Taxable Income Over	For Heads of Households, Taxable Income Over	For Trusts and Estates, Taxable Income Over
10%	$0	$0	$0	$0
12%	$9,875	$19,750	$14,100	
22%	$40,125	$80,250	$53,700	
24%	$85,525	$171,050	$85,500	$2,600
32%	$163,300	$326,600	$163,300	
35%	$207,350	$414,700	$207,350	$9,450
37%	**$518,400**	**$622,050**	**$518,400**	**$12,950**
Source: Rev. Proc. 2019-44, Year 2020 Tax Rates				

For example, if the trust instrument provides that distributions be made for "health, education and support", but nothing further, does this permit the trustee to pay out the entire IRA at this newly accelerated level? Distribution standards are real restrictions, even if the beneficiary is trustee or co-trustee, despite what some think. If a $2 million IRA would have paid $60,000 annual RMDs under the old rules and the trustee would have been

justified in paying that much to beneficiaries, is the trustee now *equally* justified to distribute $200,000+/yr over only ten years, even when this distribution schedule leaves no principal from those accounts for the remaindermen? Is the higher distribution within the current distribution standards which were designed by the settlor under quite a different income tax environment?

Some trust instruments instruct a trustee to be conservative with distributions of principal – or even forbid it. Retirement plan distributions over ten years are often likely to be 100% principal (or maybe 90% in the final year).[3] Are such distributions to beneficiaries *justified* under the trust instrument?

This issue does not exist in every trust of course. Some trusts have an independent trustee with absolute discretion or liberal distribution standards that would justify higher payouts that are now encouraged from an income tax standpoint under the compressed 10-year stretch.

What is the settlor's wish? *To minimize income tax or protect corpus and/or preserve principal for remaindermen?* Should practitioners consider discussing the addition of some version of the instructive paragraph below with clients?

> I understand that under recently passed law my retirement benefits will be paid to this trust within ten years or perhaps a slightly longer period in some cases should I pass away after my required beginning date. I direct my trustee to consider the overall tax impact to the trust and beneficiaries in making distributions and favor a level of distributions that reduce the overall income tax to the trust/beneficiaries.

This brings us back full circle, however, to the central tension between conduit and accumulation trusts noted at the outset of this article. If a trustee of an accumulation trust distributes most or all of its taxable income received from retirement funds in order to be more income tax efficient, it is effectively no different than a conduit trust as a practical matter!

The ideal scenario for many is to enable the shifting of income tax to exploit the lower marginal tax brackets applicable to most beneficiaries without destroying the asset protection benefits of the trust. *Families often want their beneficiaries to have the protections of a trust, but not if the cost of*

this is to increase the tax on millions of dollars of taxable income from 12%/22%/24% → 37%!

Beneficiaries Whose Income Would Be Taxed in the Top Tax Brackets

For wealthy beneficiaries who will be in the top tax bracket already, or perhaps even those who are in the top two or even three brackets but who might be able to escape a high state income tax, there may be no such tension. Trapping income tax in trust at the exact same tax rate has no negative federal income tax impact. In some scenarios, it may be advantageous from a *state* income tax perspective, even for beneficiaries living in states subject to a throwback tax.[4] In other scenarios, trapping income in trust may be much *worse* from a state income tax perspective. This depends on several factors and permutations, such as whether the settlor lived in a "founder" state and where the beneficiary and trustees reside, discussion of which is beyond the scope of this newsletter.[5]

Roth IRAs and Other Roth Accounts; Net Unrealized Appreciation (NUA)

Obviously Roth IRAs and other Roth accounts do not have this issue – in most cases trustees will want to wait until the last year possible to withdraw such funds. Net unrealized appreciation (NUA) from employer securities held in a qualified retirement plan, if the trustee thinks to make a lump sum distribution of such assets prior to moving such plans to inherited IRAs, offers an unlimited "stretch".[6] These circumstances are not discussed in this newsletter either.

Using BDOTs to Achieve the Best of Both Conduit and Accumulation Trusts

Beneficiary deemed owner trusts (BDOTs) were discussed much more extensively in a prior LISI newsletter, which should be consulted for more detail.[7] Here is how they work. IRC §678 provides that:

> "a) General rule
>
> A person other than the grantor **shall be treated as the owner** of any portion of a trust with respect to which:

1) such person **has a power exercisable solely by himself to vest** the corpus or **the income** therefrom in himself, or”

Treasury regulations are crystal clear that “income” in §678(a)(1) above refers to *taxable* income, not *accounting* income.[8] This is unlike other areas of trust income taxation in which the term refers to *accounting* income.[9]

It is therefore crucial how any withdraw right is defined. If the document refers to “income” with no further elaboration, this by default will only cover accounting income. If, however, a trust instrument provides that a beneficiary of a trust has the power solely exercisable in themselves to withdraw all the *taxable* income from a trust (regardless of whether it is principal or income under state law), the beneficiary must pay the income tax on this taxable income pursuant to IRC §678(a)(1).

Importantly, whether the beneficiary actually withdraws the income (or how much) is completely irrelevant.[10] Note that the statute does not require that the beneficiary hold any power over principal beyond the taxable income of the trust – it applies whether the power enables vesting of the “corpus **OR** the income”. I refer to any trust in which the beneficiary must be taxed on all the taxable income, yet does not necessarily have any power over the corpus beyond this, as a beneficiary deemed owner trust, or “BDOT”.

An example of how a BDOT provision may operate:

John, age 71, has a $6 million estate, $2 million of which is a traditional IRA. He splits his trust between his son and daughter into two accumulation trusts with $3 million each, $1 million of which is comprised of an inherited IRA payable to the trust. The 10-year rule applies. They are in 22%/24% tax brackets.

In years 1-10 (for simplicity, we’ll ignore that the ten-year rule is really eleven tax years when considering the partial first year of the trust), the trustee takes $100,000 (not an RMD, just a distribution) for 10 taxable years from IRA (again, let’s ignore growth to more simply highlight the issue), and the trust makes 3% taxable interest and dividends on the other $2 million every year - $60,000 (again, ignoring growth).

Each year, the trust grants each child the right to withdraw the taxable income, which is $100,000 (IRA) + $60,000 (interest/dividends) =

$160,000. The child is taxed on all $160,000 of income regardless of how much they actually take. Let's assume for this example that the child withdraws 30% of this to pay taxes and spend ($48,000) and allows the $112,000 to lapse and remain in trust. Had a conduit or accumulation trust with liberal distribution standards been used, $160,000 would be leaving this trust over 10 years instead of only $48,000. Over ten years of distributions, this is a huge difference: $112,000 x 10 years = $1.12 million more that is protected in trust, with the exact same income tax minimization benefits. Considering growth over ten years, this difference could easily be twice as much.

Wealthier beneficiaries who have the wherewithal to pay the income tax burden, just like those who voluntarily establish irrevocable grantor trusts, may leave even more in trust to let it effectively grow tax-free for their descendants like any other grantor trust, which means in our example that half a million more dollars would be in a protected GST exempt trust outside of the beneficiary's estate.

Needier beneficiaries may withdraw more, of course, but at least there is the option of keeping these retirement funds protected in trust that would not be there under other trust designs without trapping the income in trust at more confiscatory brackets.

Like a *Crummey* power, to the extent that such a power is not exercised and is allowed to lapse, only the greater of $5,000 or 5% is protected from being considered a taxable release/transfer and any amounts allowed to lapse above this threshold will be considered an additional contribution for estate/gift/GST purposes.[11] In many states, this protection of lapses up to 5% rule holds true for state debtor/creditor purposes as well, but a surprising number of states follow the common law rule that does not regard any lapse, even greater than 5%, as creating a self-settled trust.[12]

If the power of withdrawal is only over accounting income, the 5% lapse protection will only be calculated on that accounting income rather than the entire corpus, but if the power is over all the income attributable to the entire corpus and may be satisfied from those assets, the 5% should be calculated on that larger amount.[13] That said, there is no clear case or ruling on this point, and some may wish to draft a withdrawal power which extends to the greater of the trust taxable income or 5% of the trust corpus, which might also extend more flexibility in down years.

In our simple example above, the $160,000 of taxable income was slightly over 5% of the trust corpus ($3,000,000 times 5% = $150,000), but the amounts allowed to lapse ($112,000) was well under this amount. What if the beneficiary had allowed it all to lapse? $10,000 of the $160,000 total allowed to lapse would be over the 5% ($150,000) and would be considered a contribution to the trust, which would cause a fraction to be considered self-settled under some state debtor/creditor laws, and a fraction to potentially be included in the power holder's estate.

To avoid this, the beneficiary can simply withdraw $10,000 and only allow $150,000 or less to lapse. That could go into any number of estate and asset protection vehicles. Beneficiaries are also known to, on rare occasions, spend money. The trust could also borrow from the "hanging power" concept so often used in *Crummey* trusts, and account for this separately and provide that this amount "hang" and be withdrawable (and likely lapse) in future years. If the amount is only withdrawable with the consent of a non-adverse trustee, in many states it would still be protected from creditors, yet would not cause a taxable release for estate/gift/GST purposes since it would still be a general power of appointment under IRC § 2514(c). In short, the 5% limitation is rarely going to be a major problem, especially when other assets are included to comprise a portion of the trust (and may be invested to produce more growth and less taxable income if desired).

Separate but equal is not good enough! End IRA/Trust Segregation!

Before the SECURE Act, some practitioners argued that separate or standalone trusts should be strongly considered for retirement plans/IRAs.[14] This was more important when trusts had to more careful to exclude older beneficiaries or potential appointees from shortening the "stretch" deferral because they would also be considered "designated beneficiaries" (this concern will only be relevant in some rare cases now). There may still be some advantages in segregating trusts where charities might be desired beneficiaries of other trust assets, which would still botch "designated beneficiary" status (though this would now only cut the stretch in half from ten to five years if the owner dies before their required beginning date). There may still be some rationale in being able to more selectively shift different types of income more efficiently with multiple trusts. It's unclear to what extent that separate IRA trusts with the same grantor/beneficiary could now be consolidated together pursuant to the new

Treas. Reg. § 1.643(f)-1(a), "if a principal purpose...is avoidance of federal income tax".

More importantly, however, the BDOT strategy will often work much better when the assets are consolidated into one trust, rather than segregated. Because there are other assets to comprise the corpus over which the 5% is calculated, assets which typically produce less than 5% of taxable income (and which can be manipulated to produce less through investment decisions), more can be soaked up with the IRC §2514(e) lapse protection and be allowed to remain protected in trust. By contrast, if standalone IRA trusts are used and comprise the entire corpus of a trust, the taxable income would at some point over ten years inevitably exceed 5%, since even if distributions were prorated over eleven taxable years the taxable income as a proportion of the total corpus would rise to over 9%.

Why a BDOT Should Still Be Drafted to Comply with Accumulation Trust Rules

Does a BDOT qualify as a "see through trust" in which the beneficiary is considered the sole "designated beneficiary"? Perhaps, but don't count on it. If such qualification matters, it's best to ensure that it qualifies as an accumulation trust.

Arguably, if all income from a trust must be taxed to the beneficiary under IRC §678, there is not even a need to consider the "see through trust" rules. Rev. Rul. 85-13 (and many rulings since) already orders us to ignore a grantor trust as a separate taxpayer. There is, of course, no ruling to clarify this and defensive planning dictates not to rely on this interpretation in the see through trust area (even if the trust allows the beneficiary to withdraw the entire corpus).

Some may also argue that a beneficiary deemed owner trust is a *de facto* equivalent of a conduit trust. After all, in the marital trust context (both GPOA marital and QTIP varieties), the ability to withdraw income is considered the same as the mandatory distribution of it.[15] While the logic of this analogy is indisputable, we cannot count on this interpretation either. Under an uber-strict reading of the conduit trust example in the regulations, it requires actual distribution, not merely the right to withdraw the distribution.[16] In fact, a strict reading of the conduit trust example even requires tracing!

Moreover, an effective BDOT design will usually have the flexibility to prospectively eliminate, add back or customize the withdrawal right year by year through a cessor/forfeiture clause or trustee or trust protector power. This would also preclude qualification as a conduit trust, which under a literal reading of the regulation would not permit any "hold back" or other clauses that could cut off future distributions, even under extreme situations.

Remember Natalie Choate's acronym "O/R-2-NLP": outright to named living persons.[17] Ensuring that some individual who is living at the time of the settlor's death ultimately receives any accumulations at some point outright is the easiest way to ensure that the trust still qualifies as a designated beneficiary. If the owner reaches their required beginning date but is still relatively young and the "at least as rapidly", "ghost life expectancy" rule would give 5-10 years of deferral regardless of "designated beneficiary" status, then perhaps any special clauses to ensure designated beneficiary status may comfortably be jettisoned.

Alternative Solutions Will Frequently be Discussed, but Rarely be Used – CRT, Charitable Annuity, Roth Conversions, Life Insurance

Roth IRA calculators invariably assume someone has the cash and the intestinal fortitude to pay the additional tax due on conversion and they and their children will not be in lower tax brackets, which is often not the case. Conversions make less financial sense if a taxpayer must incur capital gains to raise the cash, or worse, use traditional IRA funds. Congress pulled out the rug on the Roth segregation conversion strategy, which exploited the prior ability to cherry pick and "undo" (recharacterize) some Roth IRA conversions but not others. Taxpayers are not idiots to ask the question: "if Congress can suddenly pull the rug out from under "stretch IRAs" that we've relied on in planning for decades, what's to stop them from doing the same to Roth accounts?" The simple answer to this is "nothing." There is no Constitutional prohibition to changing the tax law. The Secure Act was an astonishingly bipartisan bill. Unlike insurance companies, drug companies, real estate developers etc., there is no strong lobbying constituency to protect such broad tax breaks.

If a Roth conversion did not make sense when the beneficiaries could get 50-80 years of tax-free growth, it won't make much more sense when it's only ten years. Despite the above concerns, partial or even full Roth conversions can still make sense, but the variables to consider are often

much more complicated than financial writers make them out to be. We are stuck with planning for traditional accounts for the foreseeable future.

Leaving traditional IRA funds to charitable remainder trusts and charitable annuities is only going to be palatable to taxpayers with strong charitable intent, who have little regard to the asset protection or sheltering of funds from estate tax for their beneficiaries. For those with taxable estates, the §691(c) deduction would likely go completely wasted by using a CRT![18] In short, extremely few people will ever strongly consider these more complicated estate planning structures over other options, such as simply carving out a charity as a direct beneficiary of a portion of an IRA without tethering them together with individual beneficiaries for life.

Conclusions – When Will a BDOT Fit? Building Flexibility

In conclusion, a BDOT will not fit every situation – no one trust design ever does. Granting a withdrawal power to substance-abusing or special needs beneficiaries doesn't make any sense.

That said, it will fit many situations. Doesn't it make sense to grant a trustee the power to prospectively add these withdrawal rights, or eliminate them, as the circumstances require? The old paradigm where settlors rigidly distribute accounting income only, so that principal grows for the next generations on end is a relatively rare request these days. It's much more common that clients want to minimize "dead hand control" but still provide the most protection they can for creditor and divorce situations, and the ability to shelter from potential estate tax increases. A BDOT design fits this desire and can largely solve the inherent tension between asset protection and income tax minimization in light of compressed tax brackets and distribution schedules that the SECURE Act now foists upon unsuspecting taxpayers.

HOPE THIS HELPS YOU HELP OTHERS MAKE A *POSITIVE* DIFFERENCE!

Ed Morrow

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CITATIONS:

[1] Treas. Reg. 1.401(a)(9)-5, Q&A7(c)(3) contains two relatively sparse examples.

[2] See IRC §401(a)(9)(E)(ii) and §401(a)(9)(H)(ii).

[3] See *Uniform Principal and Income Act*, §409. The general rule that RMDs are 90% principal and 10% accounting income and non-RMDs are 100% principal has been changed by the Uniform Fiduciary Income and Principal Act, but this has thus far only been passed in one state. See www.uniformlaws.org for updates in this area.

[4] CA. Rev. & Tax Code § 17745(b) and N.Y. Tax Law § 612(b)(40), for example, contain throwback provisions, but exclude income incurred prior to a beneficiary reaching age 21, which is built into the old federal throwback rules in IRC §665(b). Paying attention to this rule for any family willing to set aside benefits for someone under age 21 can save considerable tax: 13.3% (CA), 8.82 (NY state), 3.786% (NYC) – whether accumulation then conversion to a BDOT structure for those CA/NY residents over age 21 can avoid the throwback tax will have to await discussion in another article. As discussed, trapping income in trust would only be viable for those beneficiaries in the top tax brackets even in the best of circumstances.

[5] For a 50 state comparison chart outlining the different factors that states use to tax non-grantor trusts, email the author for the latest update or see https://www.actec.org/assets/1/6/Morrow_State_Residency_and_Source_Income_Factors_for_Taxation_of_Irrevocable_Non-Grantor_Trusts.pdf

[6] IRC § 402(e)(4). Recall, however, that the NUA tax break was once up for the chopping block in the Greenbook along with killing the stretch IRA, like it or *lump it*.

[7] *IRC §678 and the Beneficiary Deemed Owner Trust (BDOT)*, LISI Estate Planning Newsletter #2577 (September 5, 2017). There is updated white paper available to download free online at:
https://ssrn.com/abstract=3165592.

[8] Treas. Reg. §1.671-2(b).

[9] Treas. Reg. § 1.643(b)-1.

[10] See, e.g., *Mallinckrodt v. Nunan*, 146 F.2d 1 (8th Cir. 1945), Pre-IRC §678 "Clifford" regulations under §39.22(a)-22, IRC §678(a)(1) and Treas. Reg. §1.678-1, *Campbell v. Commissioner*, T.C. Memo 1979-495, PLR 2016-33021.

[11] IRC 2514(e). Treas. Reg. §26.2652-1(a)(5).

[12] See the extensive 50 state chart which accompanies the BDOT white paper previously cited and available for download at www.ssrn.com.

[13] Rev. Rul. 66-87 did not permit the lapsed powers to be exercised over ALL of the "proceeds of" the trust assets (i.e. not the income attributable to principal, such as capital gains, extraordinary dividend or distribution) which §2514(e) references, therefore it had to apply the smaller value. See also Rev. Rul. 85-88, 1985-2 C.B. 201, *Fish v. U.S.*, 432 F.2d 1278 (9th Cir. 1970) and PLR 2007-36023. Also Treas. Reg. §125.2514-3(c)(4).

[14] *Using Standalone or Separate Trusts Solely to Receive Retirement Benefits, Morrow, Edwin P., Nov./Dec 2007 issue of Journal of Retirement Planning*

[15] Treas. Reg. §20.2056(b)-5(f)(8).

[16] The “conduit trust” is in Treas. Reg. 1.401(a)(9)-5, Q&A7(c)(3), Example 2:

> (i) The facts are the same as Example 1 except that the testamentary trust instrument provides that all amounts distributed from A's account in Plan X to the trustee while B is alive **will be paid directly to B upon receipt** by the trustee of Trust P.
>
> (ii) In this case, B is the sole designated beneficiary of A's account in Plan X for purposes of determining the designated beneficiary under section 401(a)(9)(B)(iii) and (iv). **No amounts distributed from A's account in Plan X to Trust P are accumulated in Trust P during B's lifetime for the benefit of any other beneficiary.** Therefore, the residuary beneficiaries of Trust P are mere potential successors to B's interest in Plan X. Because B is the sole beneficiary of the testamentary trust's interest in A's account in Plan X, the annual required minimum distributions from A's account to Trust P must begin no later than the end of the calendar year in which A would have attained age 70½ , rather than the calendar year immediately following the calendar year of A's death.

[17] See Natalie Choate’s discussion of accumulation trust rules in her chapters on trusts in her various editions of *Life and Death Planning for Retirement Benefits*.

[18] See PLR 1999-01023, Treas. Reg. §1.664-1(d)(2).