

THE DUFFORD WALDECK QUARTERLY

A NEWSLETTER FOR OUR CLIENTS

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SECOND QUARTER

DUFFORD, WALDECK, MILBURN & KROHN, L.L.P.

2014

IRA UPDATE

by William H.T. Frey

Rollover Limitations

On July 11, 2014, the IRS issued a notice that the proposed regulation they issued July 14, 1981 (and never finalized) was being withdrawn. The proposed regulation allowed a distribution from an IRA to be rolled over into an IRA within 60 days of the distribution so long as only one rollover from the IRA is made within a one-year period. If the rules are followed, the withdrawal is not taxable and avoids the possible 10% early withdrawal penalty. The proposed regulation allowed this test for each IRA account. If someone had four IRA accounts, they could do rollovers from each account (or four rollovers during a year).

The notice says the IRS will follow the holding in a 2014 Tax Court case (*Bobrow v. Commissioner*) that applies the limitation to all of a person's IRAs, not each IRA separately. That means if you want to move funds from a group of IRAs, you will need to do it over a period of time if you want to take out the funds and then deposit them into another IRA. There has been concern that allowing people to stagger the rollovers among a number of IRAs allows them to use a substantial portion of their IRA funds without being taxed; by applying the rollover law to all of a person's IRAs, he or she will not be able to have use of the funds from the IRAs for more than 60 days out of a year.

For anyone who has been using a series of IRA withdrawals to have funds available for their use without paying the taxes on the withdrawal, the notice does say the IRS will only apply the new holding from *Bobrow* for distributions occurring on or after January 1, 2015. That will give persons using this loophole an opportunity to complete

rollovers and avoid the new rules so long as all distributions taken in 2014 are timely rolled into another IRA.

This may be seen as creating a hardship for anyone with multiple IRAs who is trying to consolidate them or move them to a new IRA trustee or custodian. The new rule can be avoided by doing a direct transfer from the old trustee/custodian to the new trustee/custodian (never actually receiving the funds from the IRA personally as a distribution). Because of the possible taxability of an IRA withdrawal, as well as the possible penalties for early withdrawal, it is important to be aware of all of the rules concerning the distribution and its rollover to another IRA. For distributions after December 2014, you will need to consider any distributions from other IRAs (and if those are held by different trustees/custodians, it is possible the trustee/custodian will not be able to warn you of the new rule).

Charitable IRA Distributions

On December 31, 2013, the ability to have a direct charitable distribution made to a charity of your choice from your IRA expired. The advantage of a direct charitable distribution was that the amount of the distribution was not added to your income (as it would be if you took out the distribution and then wrote a check to charity for that amount). For some people, the difference was not important (the charitable deduction would offset the income that had to be reported). However, for some people this had the important benefit of excluding the distribution from income. For instance, if your charitable contribution is limited by a percentage of your income, the direct charitable distribution allowed more charitable giving. Similarly, by not having the distribution included in income, some people may avoid the extra 3.8% tax on net investment income that is imposed under the Affordable Care Act.

On July 17, 2014, the House passed legislation to extend that tax benefit beyond 2013; however, the President has threatened to veto the legislation if it is passed by the Senate. If you have used the direct charitable distribution in the past and plan to do so this year, you should not make the contribution until there is legislation in effect and you can be sure your donation complies with the new law.

DWMK ATTORNEY ANNIE D. MURPHY NAMED PARTNER



by Matt Montgomery

Dufford, Waldeck, Milburn & Krohn, LLP, is pleased to announce that Annie D. Murphy has become a partner of the firm.

Annie's practice will continue to focus on civil litigation, real estate, and estate planning. Her litigation practice focuses on property and contract disputes, construction defects, and mechanic's liens. Annie's real estate practice focuses on landlord/tenant law, and includes evictions, fair housing disputes, the preparation of residential and commercial lease documents, security agreements, property management agreements, policies and house rules, and real estate contracts.

She regularly teaches classes and conducts seminars for the Colorado Housing and Finance Authority, the Affordable Housing Management Association, private management companies and is a guest speaker at housing conferences on topics relevant to property managers and owners and landlords. This summer she worked with the Jefferson County Public Health Department and conducted a CLE for attorneys on housing law and co-authored the Smoke-Free Multiunit Housing Toolkit and Colorado Housing Law Attorney Toolkit.

Annie also serves as a mediator in Small Claims Court. In addition to her work as an attorney, Annie serves as Vice President of the Mesa Water and Sanitation District and the Director of the Grand Mesa Nordic Junior Learn to Ski

Program. Outside of the office, Annie is an avid runner and skier, and enjoys spending time with her family. Annie and her husband, Chris, are expecting their second child later this summer. We look forward to Annie's continued success advocating for clients in Western Colorado as a partner of the firm.

JOSEPH H. SKINNER JOINS DWMK AS ATTORNEY OF COUNSEL



by Matt Montgomery

Dufford, Waldeck, Milburn & Krohn, LLP, is pleased to announce that Joseph H. Skinner has joined the firm "Of Counsel."

Joe brings to the firm his substantial experience in trust and estate law. He is a Colorado native who began his law practice with the Mesa County District Attorney's office in 1977, and later went into private practice. In 1993, Joe left private practice to manage local trust departments for banks and later became the Regional Manager for Wells Fargo Private Client Services. After his retirement from banking, Joe assumed the practice of his former partner, James Robb, focusing primarily on estate and trust work.

Joe is active in local non-profit and community projects. In 2008, Joe was recognized for these efforts by the Grand Junction Chamber of Commerce who gave him its Citizen of the Year award in 2008. He adds his knowledge of financial services to the firm's already deep knowledge in the area of trust and estate law.

DWMK WELCOMES NEW FIRM ADMINISTRATOR

by Barb Butler

While we were reluctant to see her go, our former Administrator, Kris Nichols, and her husband left the Grand Valley last month to be closer to family. As one of her last duties, Kris assisted us in our search for her replacement.

Jacqueline English –Jackie– started working with us in June, and we are delighted to have her. She was born in Crook, England. When she was about six her family moved to a small town in Canada where Jackie was soon spending much of her time and energy swimming ... her other two choices for activities were hockey or curling. She excelled at competitive swimming and received a scholarship to the University of Colorado, where she earned her bachelor's degree in biology. Putting her degree immediately to work at a Denver law firm, and then in the law department at US West, she eventually returned to school, earning her MBA and a Masters degree in Corporate Communications from Denver University.

Jackie comes to our firm after a successful career as Director of Legal Services for US West. Following the merger with Qwest, Jackie's department was downsized, and she and her husband started their own business, recruiting professionals for the legal industry. They moved to Grand Junction in 2005, along with their two children, to take advantage of all the outdoor opportunities available in the Grand Valley.

In addition to staying busy at DWMK, Jackie coaches the Maverick Aquatics swim team. She and her family enjoy mountain biking, baseball, camping, and most any outdoor adventure. Please join us in welcoming Jackie to our firm.