

WHAT DO I NEED TO KNOW ABOUT CLARK v RAMEKER ?

After a retirement plan owner dies, are funds still “retirement funds” for purposes of the bankruptcy code. Short Answer: **No**

Funds in an inherited IRA are not considered “retirement funds,” and thus, are not exempt from the debtor’s bankruptcy estate.

3 Characteristics of Inherited IRAs: Basis for Decision

1. Inherited IRAs prohibit any additional contributions
2. An inherited IRA owner can liquidate the entire account at any time and for any purpose, without penalty
3. An inherited IRA owner is required either to withdraw all account funds within 5 years of inheriting or to take RMDs.

2 Public Policy Rationales

1. Nothing about the inherited IRA’s legal characteristics would prevent or discourage the individual from using the entire balance of the account on a vacation home or sports car immediately after bankruptcy proceedings are complete.
2. Allowing that kind of exemption would convert Bankruptcy Code’s purposes to preserving debtor’s ability to meet their basic needs and ensuring that they have a “fresh start,” into a “free pass.”

Planning Opportunities

- Surviving spouses should consider a spousal rollover even if they have not reached age 59½
- Standalone retirement trusts more important than ever
- Review beneficiary designations with clients
- Discuss standalone retirement trusts with clients, rather than outright bequests to spouses and/or contingent beneficiaries
- Consider converting inherited spousal IRAs to rollover IRAs

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