

**PROBATE, TRUSTS AND ESTATES SECTION
E-NEWSLETTER**

April 2023

Upcoming Events and CLE Programs

Probate, Trusts and Estates Section Council Meeting

- Thursday, May 18, 2023 at 3:30 p.m.
- Location: MSBA Office and/or Zoom
- Contact Tram Nguyen (tnguyen@mnbars.org) with any questions or to attend the meeting

Greater MN Probate & Trust Study Group Conference Call

- Wednesday, May 17, 2023 at 9:00 a.m.
- Location: Call-in Number: (888) 354-0094; Passcode: 9295091072
- Contact Bradley W. Hanson (bhanson@quinlivan.com; (320) 251-1414) with any questions or to join the group

CLEs

- MSBA, HCBA, RCBA, April 25, 2023: [Maintaining Colleague Referrals](#)
 - MSBA, HCBA, RCBA, April 26, 2023: [Perspectives on Those Notorious Red Flags - A Dialogue Between Estate Planners and Estate Litigators](#)
 - MSBA, HCBA, RCBA, April 26, 2023: [Ethics: An Update from the Director of the Office of Lawyers Professional Responsibility](#)
 - MSBA, HCBA, RCBA, April 27, 2023: [View From the Bench](#)
 - MSBA, HCBA, RCBA, May 4, 2023: [Real Property Transfers from a Probate Estate - Getting Necessary Documents Recorded](#)
 - Minnesota CLE, June 12-13, 2023: [2023 Probate and Trust Law Section Conference \(Live In Person\)](#)
 - Minnesota CLE, July 11-12, 2023: [2023 Probate and Trust Law Section Conference \(Online Replay\)](#)
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**TAX-FREE ROLLOVERS OF 529 PLAN FUNDS TO ROTH IRAS
ALLOWED UNDER SECURE 2.0**

By: [Amanda Kruse](#) and [Beth T. Morrison](#) of Lathrop GPM LLP

Section 529 college savings accounts are used for tax-free education investments. When considering whether to create a 529 account, there generally is some apprehension that the person you are saving for won't pursue a college education or that there will be leftover assets in the account. What happens to those assets if they cannot be used for education expenses? If assets in

a 529 account are used for something other than qualified education expenses, under current law, the earnings portion of the distribution is subject to ordinary state and federal income tax and a 10% penalty. This can disincentivize the use of 529 accounts because of the risk that the beneficiary may need less assets than are held in the 529 account or choose to forego college altogether.

The Setting Every Community Up for Retirement Enhancement 2.0 Act of 2022 (SECURE 2.0) was signed into law on December 23, 2022, expanding the SECURE Act of 2019, which aimed to improve laws on retirement accounts. SECURE 2.0 includes dozens of provisions, addressing everything from required minimum distributions to penalties on early withdrawals from retirement accounts. SECURE 2.0 also amends the Internal Revenue Code to permit tax-free and penalty-free rollovers from 529 accounts to Roth IRAs in certain circumstances. This is a great opportunity to extend tax-free investments for children or grandchildren. This provision takes effect in 2024 but, the rollovers are not allowed without limits.

SECURE 2.0 allows a beneficiary of a 529 account to roll over up to \$35,000 from his or her 529 account to his or her Roth IRA if the following criteria is met:

- The 529 account has been maintained for at least 15 years;
- The beneficiary of the Roth IRA and of the 529 account are the same individual;
- Rollovers do not exceed a combined total of \$35,000;
- The amount must be moved directly from the 529 account to the Roth IRA;
- The amount, when added to any eligible Roth IRA contribution made for the 529 account's beneficiary for the year, cannot exceed the IRA contribution limit for that year; and
- The rollover is limited to the aggregate amount contributed to the 529 account (and earnings attributed to those contributions) more than 5 years earlier.

After these amounts are converted to a Roth IRA, they become subject to the same treatment that applies to amounts converted from traditional IRAs to Roth IRAs.

What does this mean for you?

For anyone hesitating to fund a 529 account because the person you are saving for might not pursue a college education or because there might be leftover assets in the account, consider funding the 529 account now. The cost of education has been rising at an unprecedented rate, and it appears to show no signs of slowing down. If, down the road, the beneficiary of the 529 account opts not to pursue higher education or finds an alternate method for paying for their education, SECURE 2.0 provides a Roth IRA rollover option for funds not used for education expenses. Of course, another planning option is to change the designated beneficiary of the 529 account. SECURE 2.0 gives families another option to avoid the potential income taxes and penalties, retain their savings, and help the beneficiary to begin his or her retirement savings on a positive note.

2023 WRITING COMPETITION WINNERS

The Writing Competition Committee is pleased to announce the winners of the 2023 Writing Competition, Jasmin Hernandez Du Bois and Sierra Grandy.

The prompt for the 2023 Competition was: identify one or more barriers that prevent access to justice in probate, trusts, and estates law, and provide ideas for how to remove those barriers.

Jasmin Hernandez Du Bois, 2L at the University of Minnesota Law School, wrote about the intersection of probate and the prison system. The judges were impressed by Ms. Du Bois' attention to detail at a practical level, including a proposed statutory change to address possible concerns of this segment of the population.

Sierra Grandy, 2L at the University of Minnesota Law School, wrote about estate planning for neuro divergent clients. Our learnings from her piece began with something estate planners know all too well: Estate planning can be daunting. The subject matter, complexity, and antiquated language involved can present barriers to anyone, but those barriers might be uniquely experienced or especially acute for neuro divergent clients. The judges were impressed by Ms. Grandy's client-focused approach to providing legal services.

We are immensely grateful to all who applied and participated in the Competition. We especially want to thank our guest judges, Judge Michael Browne and Denise Rahne, for their invaluable wisdom and insight.

We are already looking forward to and planning for next year, so stay tuned!

Visit www.mnbar.org/members/sections/probate-and-trust-law-section or contact Tram Nguyen at tnghuyen@mnbars.org for more information.

Call for Submissions

We are always looking for attorneys to write brief articles for this newsletter on any issues relevant to the Section. This newsletter is distributed to the Probate, Trusts and Estates Section membership, which consists of approximately 1,066 practitioners. Writing for the newsletter is a great way to share your knowledge and expertise with your colleagues. Click [here](#) for examples of articles published in prior e-newsletters.

If you are interested in submitting an article, please contact Kiley Henry (henry.kiley@dorsey.com) or Jenny Colich (colich.jennifer@dorsey.com).

Best Regards,
Kiley Henry & Jenny Colich
Probate, Trusts and Estates Newsletter Editors

To access the Probate, Trusts and Estates Section Website, click [here](#).

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