

**LOOK INSIDE: Learn more about the recent Supreme Court case that puts the future of your IRAs at risk!**



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*Some of you are long time readers of our newsletter, but we've also added many new readers over the years and thought it might be fun to start a "Get to Know the CFEP Team" series. Each month we'll feature one of our team members.*

**Featuring: Aimee Hardesty, Client Services and Funding Coordinator**

**What hobbies or activities do you enjoy?** I love anything outdoors, especially kayaking. I am passionate about exercise and teach indoor cycling classes at various gyms in the area. I really enjoy quiet time playing board games or cooking with my kids, Nathan (9) and Abbey (8).

**What is your favorite recipe to make?** I am on the hunt for the best macaroni and cheese recipe. The kids love mac and cheese as much as I do so they have taken on the challenge with me. We have enjoyed experimenting.

**What's the last book you've read, or book you're reading right now?** I am currently reading *Nurturing the Leader Within Your Child: What Every Parent Needs to Know*. I also just finished *Secrets of Business Law and Siblings Without Rivalry*.

**Where was your last vacation?** I spent Mother's Day weekend at Kure Beach with the ones I love. A few days after that, I also went to Kentucky to a quiet cabin on a lake and toured wineries and distilleries nearby.

**What is one of your goals for 2014?** By the end of 2014 my goal is to be a Certified Estate Planning Assistant!

# BRIDGES

A newsletter for Carolinians on transitioning family wealth, wisdom & values

CAROLINA FAMILY ESTATE PLANNING

*Protecting Your Family For Life*

August 2014

## Inherited IRAs Not Protected in Bankruptcy; Use Trust for Protection

**O**n June 12, the Supreme Court eliminated asset protection benefits of the Inherited IRA.

In the case of *Clark v. Rameker*, the Court ruled that an IRA Heidi Heffron-Clark inherited from her deceased mother in 2000 is not eligible for protection from creditors. Heffron-Clark and her husband, Brandon C. Clark, filed for Chapter 7 bankruptcy in 2010 and identified the IRA, which was worth about \$300,000, as exempt from the bankruptcy estate.

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### 9-0 Verdict

In writing the unanimous ruling, Justice Sonia Sotomayor said that in practical terms, retirement funds are understood to be money set aside for the day a person stops working. As such, there are legal protections - including the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 - that shield these assets from creditors in a bankruptcy case so that the money is there for a person's retirement.

But three legal characteristics of inherited IRAs give proof that they do not hold retirement funds.

First, Sotomayor wrote, the IRA inheritor never is allowed to invest additional funds into the account. Second, holders of inherited IRAs must withdraw money from the account regardless of how far they are from retirement. Third, the inheritor can withdraw money from the IRA—including the entire balance—at any time and use it for any purpose.

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### Carolina Family Estate Planning

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#### Practice Areas:

- Wills & Living Trusts
- Asset Protection Trusts
- Long Term Care Planning
- Medicaid Planning & Qualification
- Veteran's Aid & Attendance Benefits
- Children's Safeguard Planning
- Probate & Estate Administration
- Trust Administration

This publication is intended to educate the general public about estate planning, elder law, asset protection and related issues. It is not intended to be legal or tax advice. The information in this newsletter may be freely copied and distributed as long as the newsletter is copied in its entirety.

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The ruling, says *The Wall Street Journal*, applies only to IRAs but not to other types of retirement accounts such as railroad pensions.

In general, a non-spousal IRA heir must withdraw the full account within five years of the initial owner's death or take out minimum amounts each year starting by December 31 of the year after the IRA owner died, *Forbes* says. And that's true whether it's a traditional IRA or a Roth IRA.

#### If you want to protect it, use a trust!

The best way to protect a non-spousal IRA inheritor is to leave the funds to a trust.

There are multiple strategies to use around trusts. However, to drive this point home, consider if Hefron-Clark's mother had planned ahead and used a trust - it would have protected the entire \$300,000!

Naturally, the type of trust you should use will vary depending on how many beneficiaries, your tax goals, assets protection goals, as well as many other variables.

If you have **ANY** concerns about creditors and divorce protection for your children, exploring setting up a trust is a great way of opening up a conversation as an advisor. Plus, it can be a great tax deferral strategy for the beneficiary. The payments coming out of the IRA can be tied to the inheritor's life expectancy, which supports tax deferral and a nice income stream. Combined with protection, in the case of bankruptcy or divorce, a trust can make a lot of sense.

One crucial thing to keep in mind: the IRA's beneficiary should be the trust itself and not the inheritor.

#### Spousal benefits

The Court's ruling only applies in non-spousal IRA cases. Surviving spouses have an option that isn't available to other inheritors because the survivor is permitted to roll the assets into his own IRA. In this way, he can postpone distributions until he turns 70½, but he'll still have to pay a 10 percent penalty if he takes the money out before turning 59½.

If the surviving spouse does not do the rollover, the account is considered an inherited IRA. The survivor wouldn't have to withdraw any money until the decedent would have turned 70½, but with the Court's ruling, *Forbes* says, those assets don't seem to be protected in a bankruptcy. *Investment News* also notes that in many states, a spousal rollover by a debtor could be considered a fraudulent conversion of non-exempt assets, which would lose protection for that money.

To learn more about using trusts to protect the future of your IRA, call us at 919-443-3035.

### Recipe for Better Brain Health

Brain food? The science of brain-healthy living is not (yet) definitive, but the dish featured here uses ingredients that research shows could boost your brain power. From AARP's new book *ThinkFood: Recipes for Brain Fitness*, this delicious recipe was submitted by food a blogger in conjunction with Posit Science, the leading provider of clinically proven brain fitness exercises and information.

#### Pecan, Cranberry & Orange Muffins

- 1/2 cup + 2 Tbsp all-purpose flour
- 1/2 cup + 2 Tbsp wheat flour
- 1 Tbsp baking powder
- 1/3 cup superfine sugar
- 1/4 cup pecans, roughly chopped
- Zest of 1/2 orange
- 1 egg
- 3/4 cup milk
- 1/2 stick butter, melted
- 2 tsp orange juice
- 1/2 cup cranberries

1. Preheat oven 425, line 12-cup muffin pan with liners.
2. Sift the two flours and baking powder into large mixing bowl, then stir in sugar, pecans & orange zest.
3. In a small mixing bowl, beat together egg, milk, butter and juice.
4. Add the wet ingredients to the dry and beat with a wooden spoon until combined.
5. Add cranberries and stir.
6. Spoon batter into muffin liners, fill 2/3 full. Bake in oven for 20 mins, or until lightly golden and firm to touch.
7. Remove from oven, cool slightly and serve while still warm.

By - *Kate Deacon, AARP.com*

**Just in time for peak peach season in North Carolina, here's a favorite Peach Cobbler!**

### Peach Cobbler Recipe

#### INGREDIENTS

- 1/2 cup unsalted butter
- 1 cup all-purpose flour
- 2 cups sugar, divided
- 1 tablespoon baking powder
- Pinch of salt
- 1 cup milk
- 4 cups fresh peach slices
- 1 tablespoon lemon juice
- Ground cinnamon or nutmeg (optional)

#### DIRECTIONS

- 1- Melt butter in a 13- x 9-inch baking dish.
- 2- Combine flour, 1 cup sugar, baking powder, and salt; add milk, stirring just until dry ingredients are moistened. Pour batter over butter (do not stir).
- 3- Bring remaining 1 cup sugar, peach slices, and lemon juice to a boil over high heat, stirring constantly; pour over batter (do not stir). Sprinkle with cinnamon, if desired. Bake at 375° for 40 to 45 minutes or until golden brown.



## THANK YOU!

**for introducing your friends & family to our office!**

We invest 100% of our time and energy to delivering first-class service to our clients. As a result, our valued clients, partners, and friends refer their family, friends and associates to us. We'd like to take a moment to thank the following individuals:

<i>Philip Passey</i>	<i>Salvatrice Squeri</i>
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**You Go Out of Your Way to Care and Provide for Your Family...  
But Have You Protected Them If Something Happens to You?**

*Thursday, August 14<sup>th</sup> at 6:30 pm or Wednesday, August 20<sup>th</sup> at 6:30 pm*

### Carolina Family Estate Planning's Learning Center

51 Kilimayne Dr., Suite 203, Cary, NC 27511

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**You've spent a lifetime building your life savings and taking care of your family, but what would happen if you fall ill or pass away? Join us for this free workshop to make sure you've protected them and discover:**

- The most important document that **everyone** needs
- How to protect your spouse and children from lawsuits, creditors, divorce, remarriage and similar concerns
- Strategies to have the advantage in tax and probate issues
- Steps you can take **now** to save **\$\$\$** in costs **later**
- How to protect your home & assets from long-term care costs
- How to make sure your spouse or children are not left **financially ruined** if you need nursing home care
- Recent US Supreme Court case that puts the future of your IRAs **at risk**

**"After attending a seminar with Jackie we knew she was the only one to handle our estate." - Bryan F.**

**These free workshops fill up quickly, so call right away!!! 919-443-3035— Registration Required!**