MONEY

IRA in living trust makes benefits immediately taxable upon death

SUCCESSFUL INVESTING

By Andrew Leckey
Tribune Media columnist

Q. I have my individual retirement account in a living trust. I understand that some financial advisers do not recommend this. Is it OK? What problems may arise when I'm gone? — L.M., via the Internet

A. While it can indeed be done legally, naming a living trust or your estate as the beneficiary of your IRA makes all the IRA benefits immediately subject to income tax upon the owner's death.

That's because benefits are taxed according to the life expectancy of the owner and, in some cases, the beneficiary, but neither a trust nor an estate has a life expectancy.

"This is one of the biggest errors that people make because living trust rules are completely different from IRA rules, and, in my opinion, most lawyers get it wrong," said attorney and certified public accountant Seymour Goldberg, senior partner with Goldberg & Goldberg P.C., in Garden City, N.Y. "Instead of putting the IRA in the living trust, what should happen is that the IRA is payable to a trust, with the trust as beneficiary."

Also keep in mind that a spouse or other individual can be a beneficiary of an IRA, with the spouse able to roll over the IRA benefits to his or her own IRA and defer payment of income tax until age 70-1/2,

requires discussions with legal and tax professionals to take into account your situation. Mistakes you make now can have severe negative impact on your heirs.