

Retirement Services

IRAs/HSAs

Groom provides comprehensive and interdisciplinary Individual Retirement Account (IRA) and Health Savings Account (HSA) advice drawing together the often complex web of prohibited transactions and income tax laws; state and federal securities, banking and insurance laws; ERISA and other disciplines. We offer extensive experience in all of the following areas:

Issues involving the marketing and servicing of “retail” IRAs by large financial institutions including banks and trust companies, broker-dealers, insurance companies and investment managers.

- SEC Regulation BI and potential Department of Labor guidance to replace the vacated DOL Fiduciary Rule, as well as state sponsored “fiduciary” rules.
- Prohibited transactions and applicable exemptions.
- “Rollovers” from qualified retirement plans.
- Investment advisory and management services including “robo-advice” and issues relating to independent adviser networks.
- Compensation issues including revenue sharing, payment for order flow and shelf-space payments.
- Sweep arrangements including FDIC-insured “waterfall” programs and broker free credit.
- Bulk “transfers” of IRA custody and servicing agreements via negative consent.
- Drafting and obtaining IRS approval of IRA documentation.
- Tax reporting requirements.
- Creating internal compliance policies.
- Relationship pricing, “householding” and bonus award programs.

Issues for custodians and service providers in the “self-directed” IRA marketplace.

- Obtaining IRS non-bank custodial approvals and advising on custodial net worth and audit requirements and IRS examinations of custodians.
- “Best practices” for dealing with alternative and hard-to-value assets.
- IRS audit and enforcement issues, including “correction” of prohibited transactions.

- Unrelated business income tax issues.
- Complying with exemptions from broker-dealer or investment adviser registration requirements.
- Avoiding and defending class action litigation by IRA owners and beneficiaries.

IRA issues in the family office and ultra-high-net-worth space.

- Prohibited transaction and “plan assets” issues – including dealing with the extraordinarily complex family and corporate “attribution” rules – relating to coinvesting family moneys in alternative investments such as venture capital, real estate, private equity, hedge funds, credit facilities, etc.
- Investments by private fund principals and employees in their own funds.
- Formation and operation of private/family trust companies and their use for IRA investing.
- IRA-owner income tax issues and IRA unrelated business income tax (UBIT) issues including the use of “blocker” entities and state tax law ramifications.
- Creditor and bankruptcy protection considerations.

HSA issues for financial institutions, health insurers/administrators and employers.

- Types of coverage that can be offered alongside an HSA on a first dollar basis without impacting eligibility.
- Issues regarding how HSA funds are held by financial institutions and whether commingling is permitted.
- How to determine what date an HSA is “established” for purposes of allowing HSA distributions on a tax-free basis.
- How enrollment Medicare Parts A and B impact HSA eligibility and how to defer enrollment.
- Obtaining non-bank custodial status from the IRS for HSA administrators.
- Assisting with the migration of HSAs from one custodian to another.
- Navigating state laws that impact HSAs.
- Correction of coverage mistakes involving High Deductible Health Plans (such as inadvertently setting a deductible lower than the required minimum).
- Setting up lines of credit for HSA account holders in a compliant manner.
- Addressing issues involving pharmacy manufacturer rebates and coupons that may impact HSA eligibility.
- Drafting and negotiating HSA agreements between employers and HSA administrators, HSA administrators and financial institutions, and HSA custodians and account owners.

Click [here](#) to be added to our mailing list for IRA and HSA-related notices and updates.