

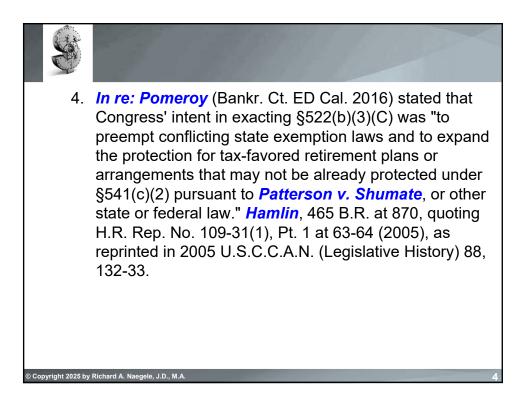


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 Note that *Patterson v. Shumate* was decided prior to the enactment of BAPCPA (the 2005 Bankruptcy Act) and <u>excludes</u> "ERISA plans" from bankruptcy under 11 U.S.C. Section 541(c)(2).

BAPCPA is not limited to ERISA plans but provides an <u>exemption</u> under Sections 522(b)(3)(C) and 522(d)(12) rather than an <u>exclusion</u> for bankruptcy.

3. *Patterson v. Shumate* is <u>still good law</u> and can be cited to protect retirement plan assets from creditor claims for both bankruptcy and non-bankruptcy debtors.

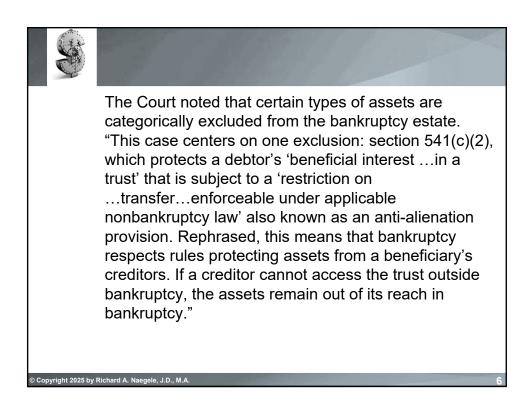




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5. In *In re: Gilbert*, No. 23-2944 (3d Cir. 2024) the Third Circuit affirmed the decision of a bankruptcy court that ERISA retirement plans may still be excluded from the bankruptcy estate even if such plans were operated contrary to ERISA and the Internal Revenue Code (IRC).

The Third Circuit stated that "The question before us is whether Gilbert's creditors can collect from [the ERISA retirement plans] because their operations allegedly flouted federal law."

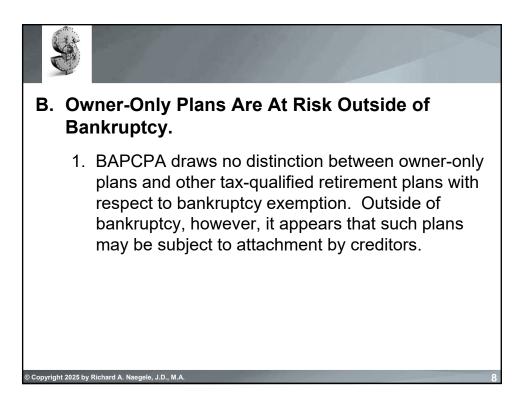


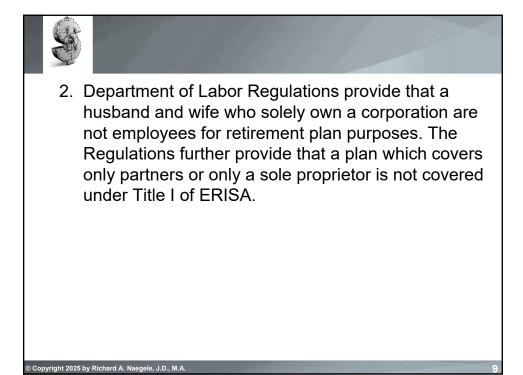


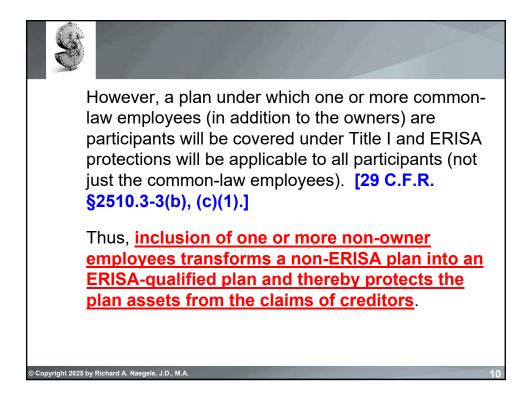
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The Third Circuit summarized its opinion in *Gilbert* as follows:

"To recap, the Supreme Court told us in *Patterson* that section 541(c)(2) means what it says: interests in trusts are not part of the bankruptcy estate if applicable law prohibits their alienation. That decision also teaches us that ERISA, which governs the Retirement Plans, sufficiently restricts transfer to exclude interests in pension plans. [The bankruptcy trustee] McDonnell has not pointed us to any language in ERISA, the IRC or any other statute that disables those protections if a retirement plan violates ERISA's rules or is not tax-qualified. So section 541(c)(2) excludes the Retirement Plans, even if their operation did not comply with ERISA and the IRC. Accordingly, the Bankruptcy and District Courts correctly dismissed McDonnell's claim for declaratory judgment."



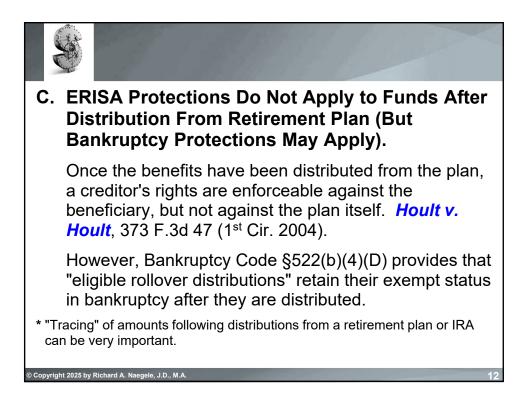


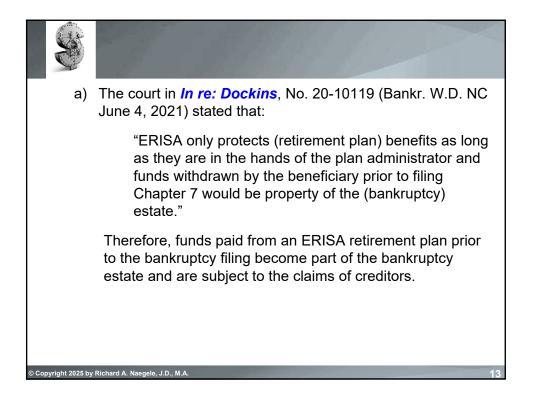


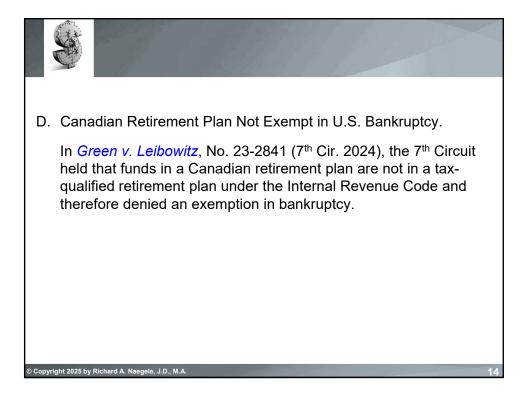


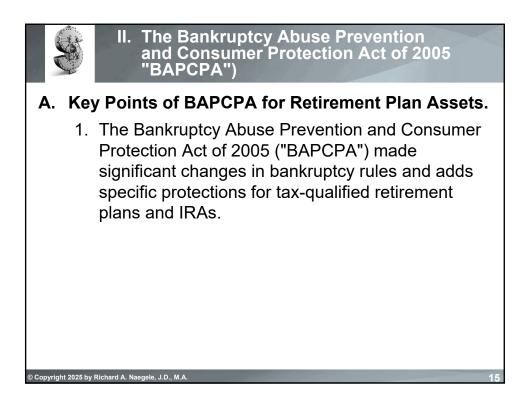
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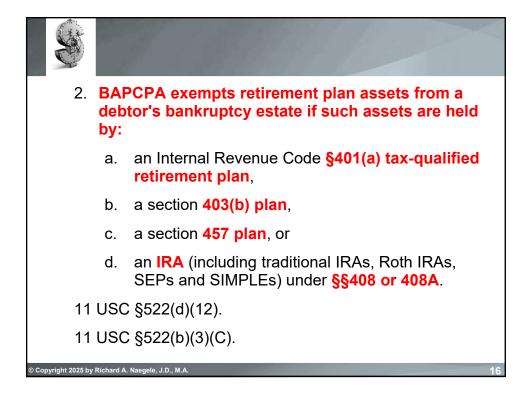
3. In Yates v. Hendon, 541 U.S. 1 (2004), the U.S. Supreme Court noted that Department of Labor Advisory Opinion 99-04A interprets 29 CFR §2510.3-3 to mean that the statutory term "employee benefit plan" does not include a plan whose only participants are the owner and his or her spouse, but does include a plan that covers as participants one or more common-law employees, in addition to the self-employed individuals. The Supreme Court noted that "[t]his agency view...merits the Judiciary's respectful consideration."







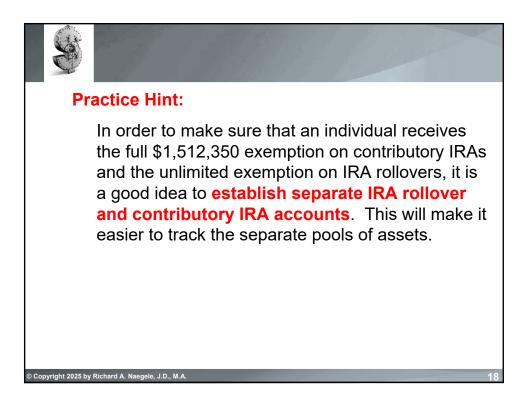






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3. The exemption for IRAs is limited to \$1,000,000. The \$1,000,000 has been increased by COLAs to \$1,512,350. However, the \$1,000,000 (adjusted) limit does not apply to employer-sponsored IRAs (e.g., SEPs or SIMPLEs). Additionally, rollovers into IRAs from qualified plans are not subject to the \$1,000,000 (adjusted) limit. In other words, SEPs, SIMPLEs, and IRA rollovers from qualified plans have an unlimited exemption. It appears that a rollover from a SEP or SIMPLE-IRA receives only \$1,512,350 of protection.

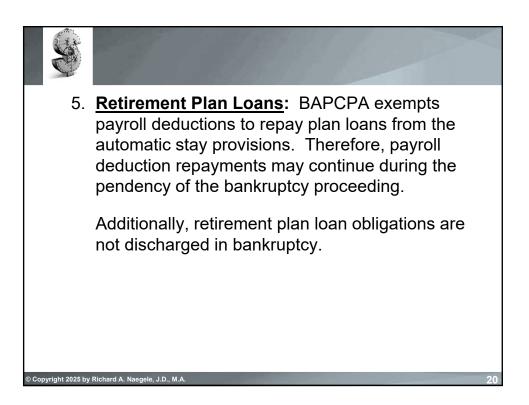




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4. BAPCPA exempts assets in retirement plans that satisfy the applicable requirements of the Internal Revenue Code. A retirement plan is deemed to be qualified under BAPCPA if it has received a favorable determination letter from the IRS.

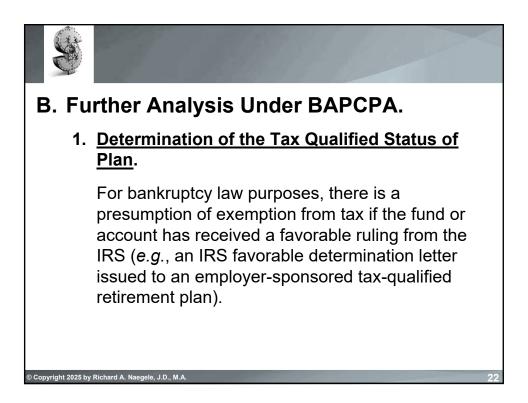
BAPCPA thereby increases the importance of obtaining an IRS determination letter for a qualified plan.





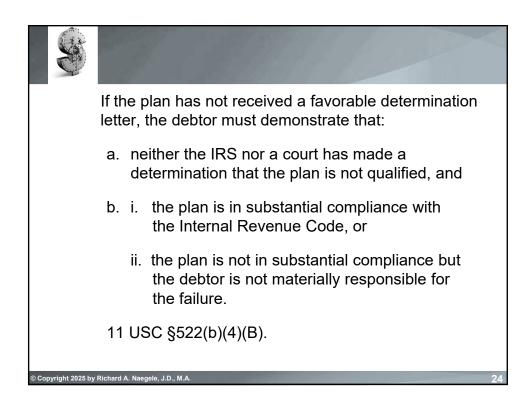
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6. In summary, under BAPCPA, qualified plan, SEP and SIMPLE assets, and IRA rollovers are protected with no dollar limitation. IRAs and Roth IRAs are protected to \$1,512,350. BAPCPA only applies to assets in bankruptcy. One must look to state law for protection of IRA assets in state law (e.g., garnishment) actions.

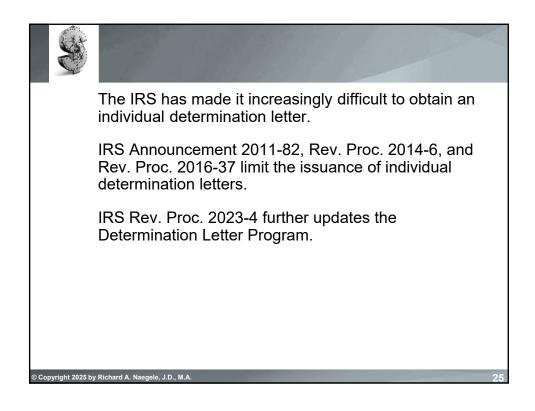


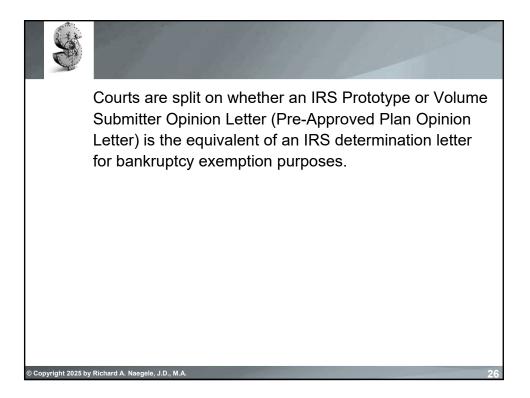


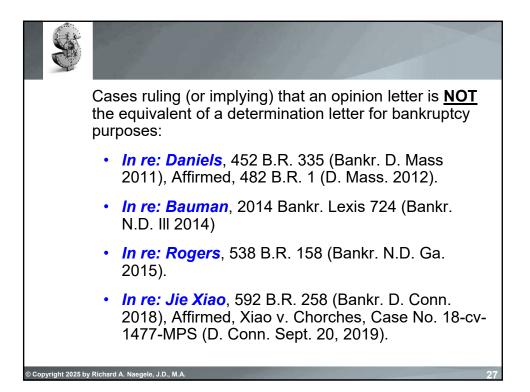
If the retirement funds are in a retirement fund that has received a favorable determination letter under IRC §7805, and that determination letter is in effect as of the date of the filing of the bankruptcy petition, those funds shall be presumed to be exempt from the estate. 11.U.S.C. §522(b)(4)(A).

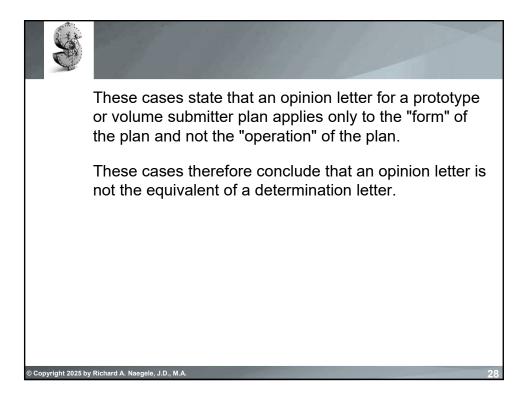


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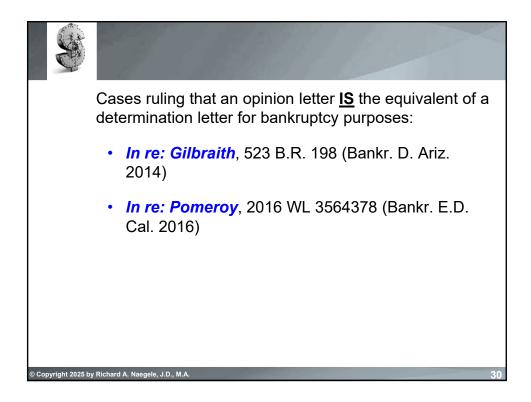


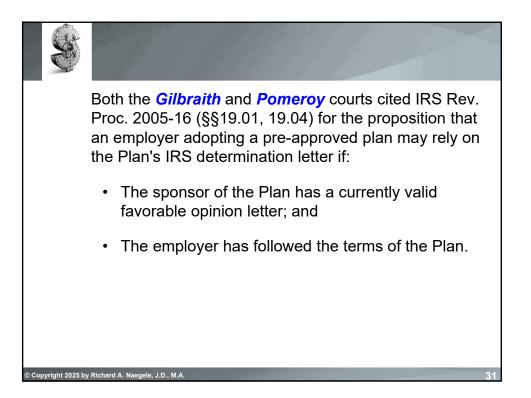


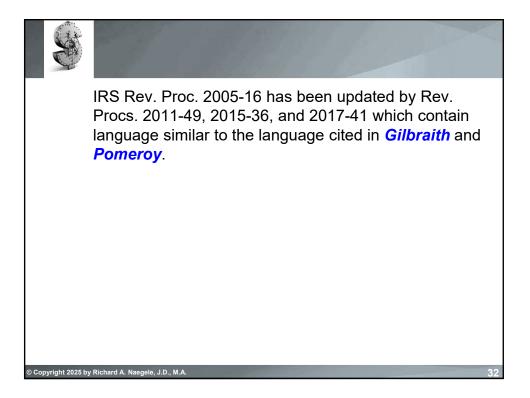


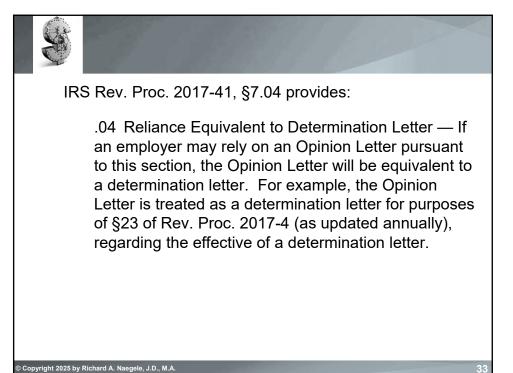
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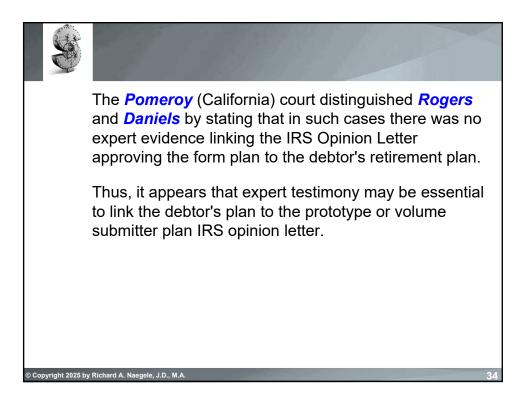
As a consequence of such rulings, debtors were required to present evidence to prove the additional points noted above in order to demonstrate the tax qualified status of the retirement plans in question.







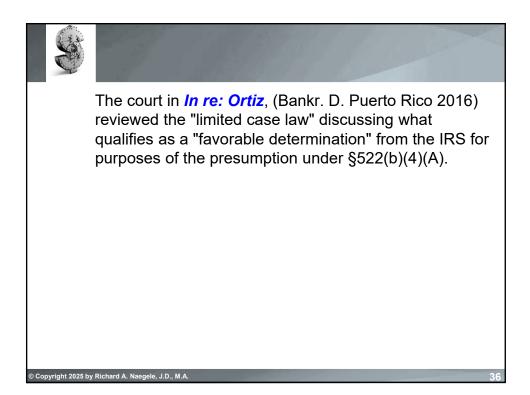






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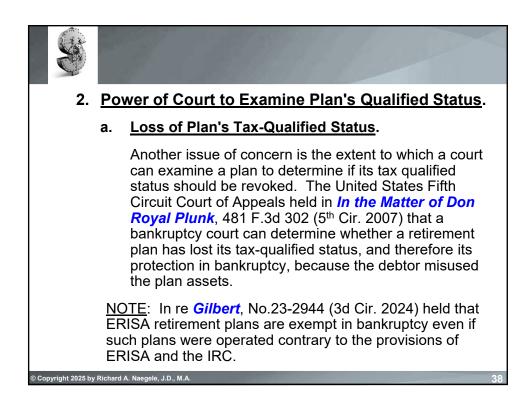
The court in *Gilbraith* also gave weight to an IRS Compliance Statement received by the plan in response to a post-bankruptcy petition filing under the IRS Voluntary Compliance Program (VCP).

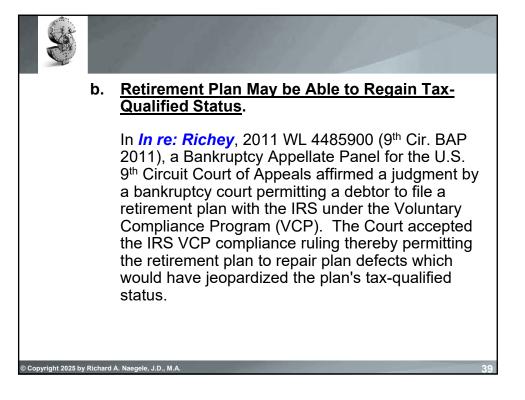


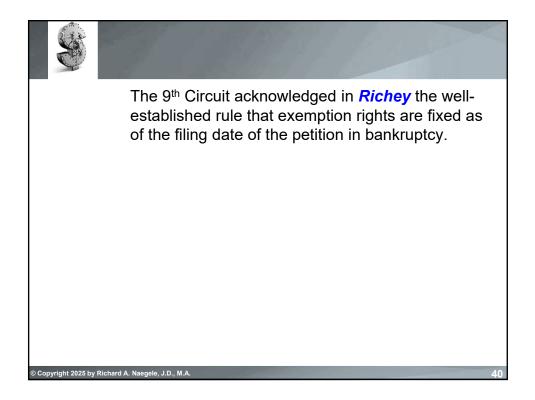


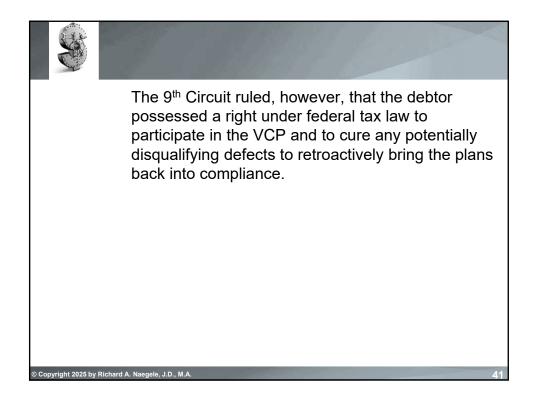
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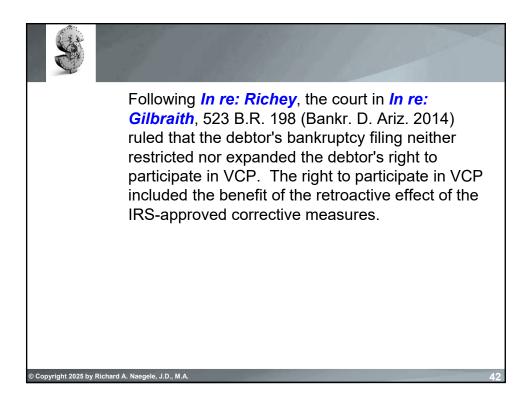
However, since the *Ortiz* court found that the debtor demonstrated that the funds were exempt under §522(b)(4)(B), it did not need to decide the issue of whether an opinion letter is equivalent to a determination letter for bankruptcy exemption purposes.

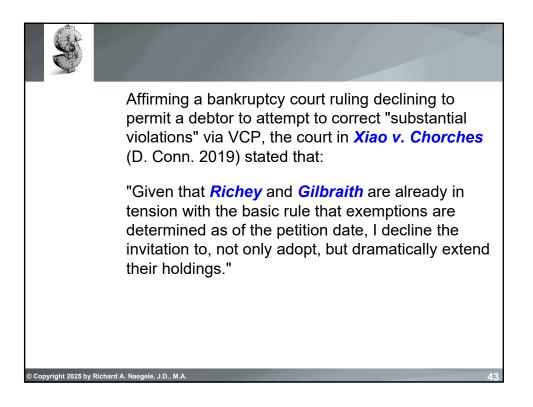


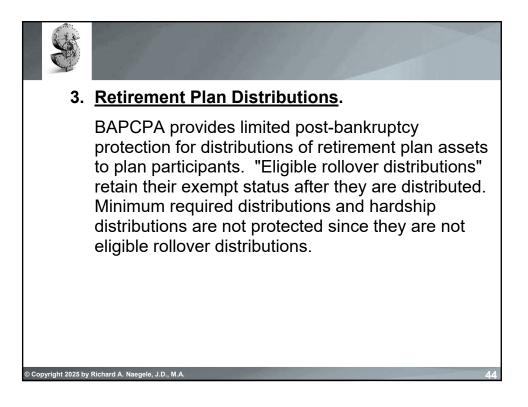










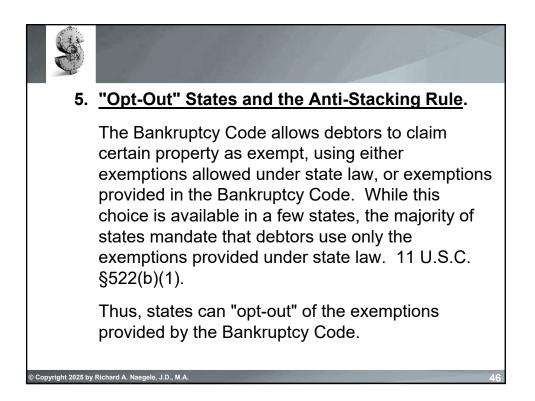




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4. Owner Only Plans are Protected in Bankruptcy.

There is case law and Department of Labor ("DOL") Regulations holding that a qualified retirement plan that benefited only the business owner (and/or the owner's spouse) was not an Employee Retirement Income Security Act ("ERISA") Plan and, therefore, could not invoke ERISA anti-alienation protections either inside or outside of bankruptcy. **Yates v. Hendon**, 541 U.S. 1 (2004). Within a federal bankruptcy proceeding, this concern has been eliminated to the extent that the debtor has a favorable ruling from the IRS or is otherwise deemed to have a tax-exempt plan as noted above.



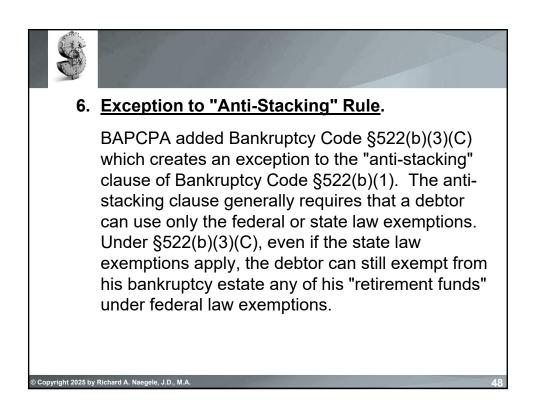


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32 states have elected to "opt-out" of the federal bankruptcy exemptions.

As a general rule, either the federal or the state exemptions apply.

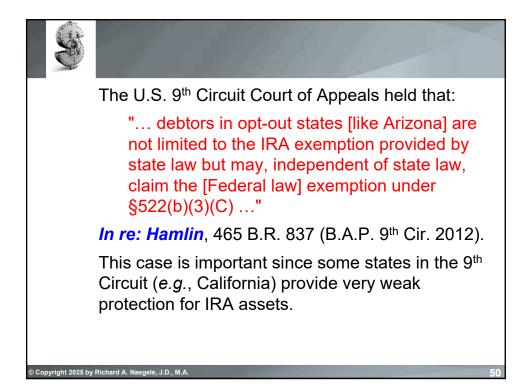
An "anti-stacking" rule provides that a debtor using the state law exemptions is not also entitled to the federal exemptions.





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In enacting BAPCPA, Congress created a new class of exemptions for certain retirement funds regardless of whether the state of domicile of the debtor has opted out of the federal scheme for other property. For retirement funds, 11 U.S.C. §522(b)(3)(C) is applicable to opt-out states and 11 U.S.C. §522(d)(12) applies in the federal exemption scheme. The two provisions are identical and provide for an exemption for: retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under §§401, 403, 408, 408A, 414, 457 or 501(a) of the Internal Revenue Code.

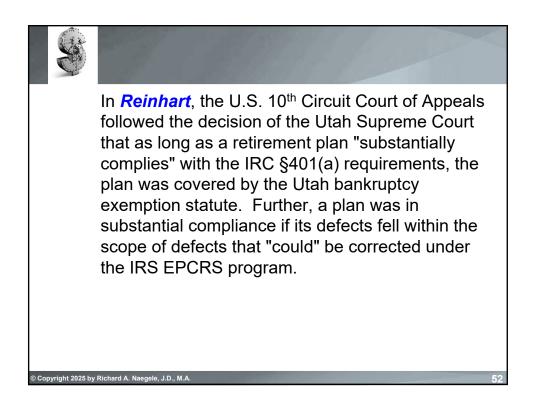


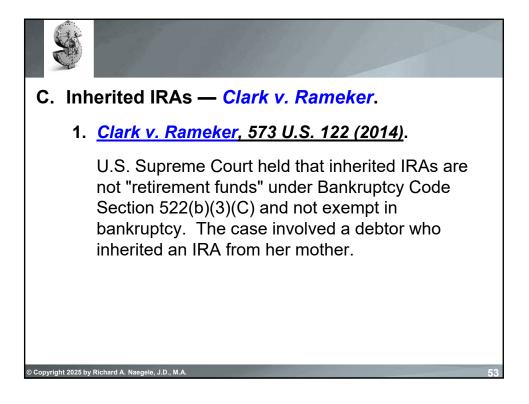


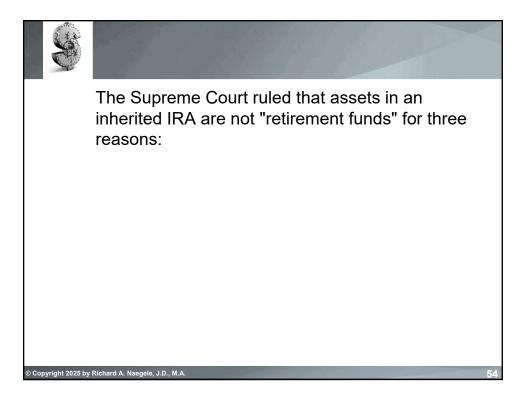
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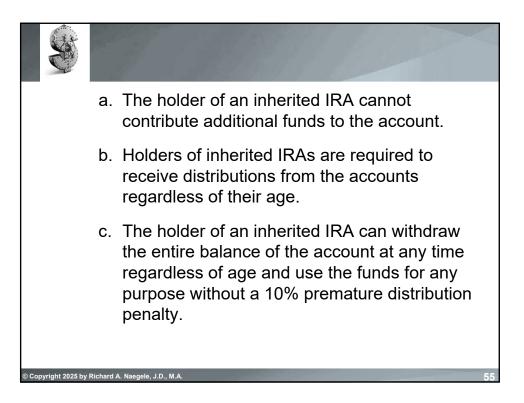
The exception to the anti-stacking rule for retirement plan assets goes both ways — it provided both the federal <u>and</u> the state law exemptions for plan and IRA assets.

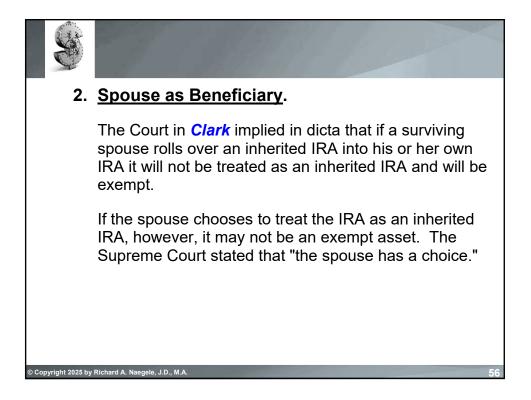
As shown in *In re: Reinhart*, 109 AFTR 2010 (10 Cir. 2012) if the state law exemptions provide greater protection for retirement plan assets than the federal exemptions, the state law exemptions will apply.











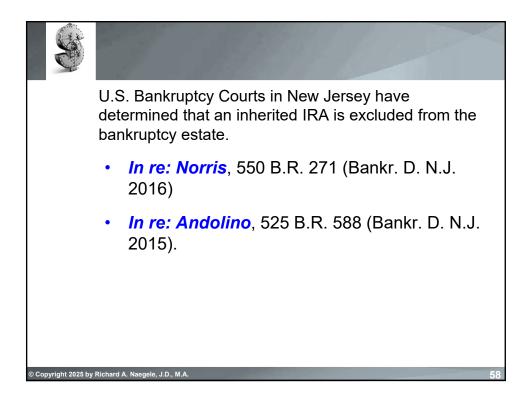


3. State Law Exemption.

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If a state is an opt-out state, an exemption to the antistacking rules provides the debtor with both the state law and bankruptcy code exemptions with respect to retirement plan assets. Ohio Rev. Code §2329.66(A)(10)(e) specifically exempts inherited IRAs from creditor claims for a debtor domiciled in Ohio.

The following states provide a specific exemption for inherited IRAs: Alaska, Arizona, Delaware, Florida, Mississippi, Missouri, North Carolina, Ohio, South Carolina, Texas, Utah, Wyoming.

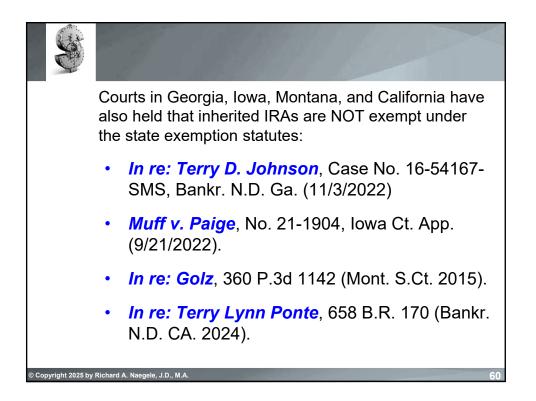


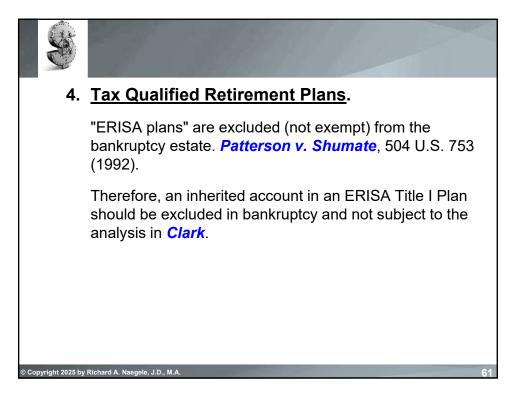


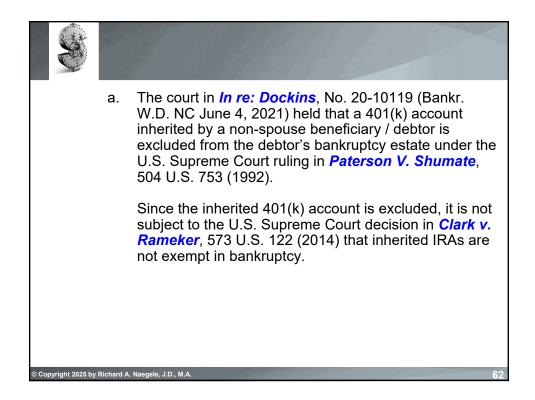
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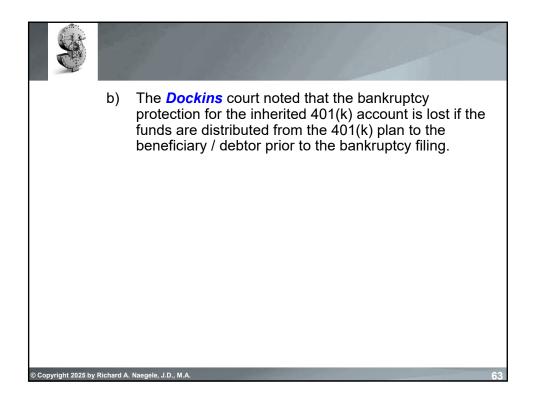
Courts in Illinois, Kansas, and Maryland have ruled that inherited IRAs are NOT exempt under the exemption statutes in such states.

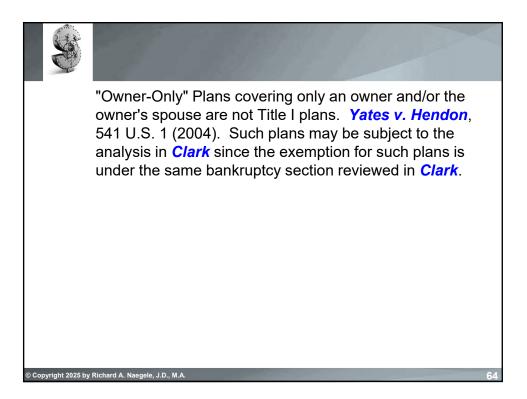
- In re: Marriage of Branit, (III. App. Ct. 1st Dist. 2015)
- In re: Penny v. Hamm, Bankr. N.D. III. 2018).
- In re: Mosby v. Clark, 2015 WL 6610988 (D.C. Kan. 2015).
- Bartch v. Bartch, CIVIL 23-0101(D.C. MD. 2024).

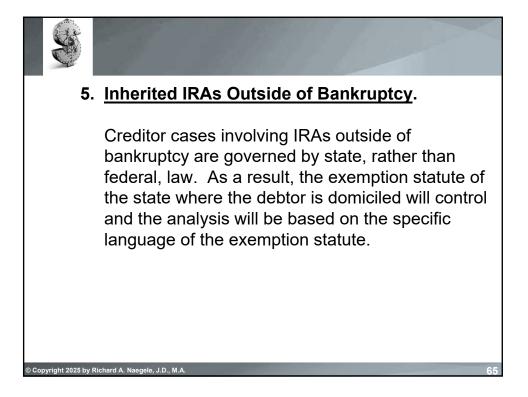


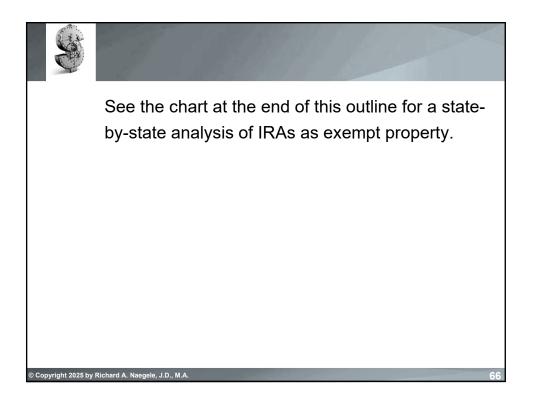










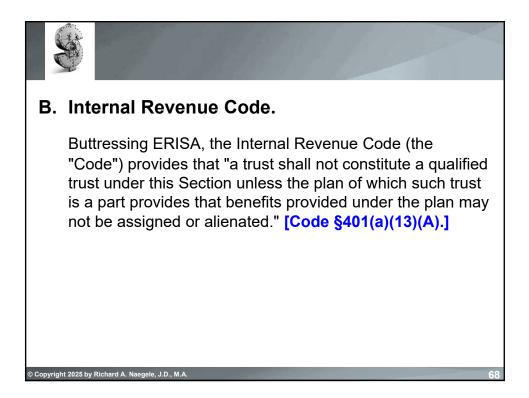


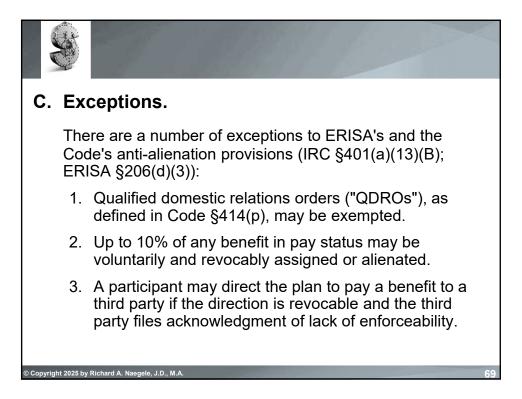
III. ERISA and Internal Revenue Code Anti-Alienation Provisions

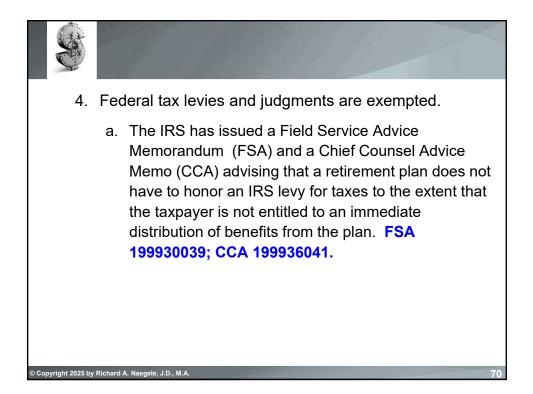
A. ERISA.

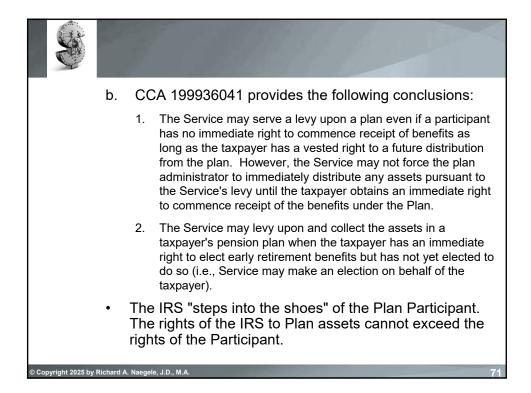
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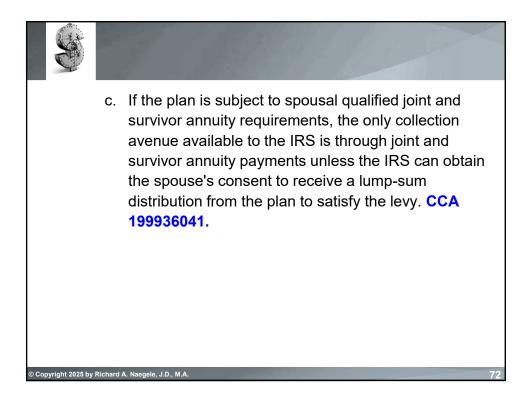
Title I of ERISA requires that a pension plan shall provide that benefits under the plan may not be assigned or alienated; *i.e.*, the plan must provide a contractual "antialienation" clause. [See ERISA §206(d), 29 U.S.C. §1056(d)(1).]









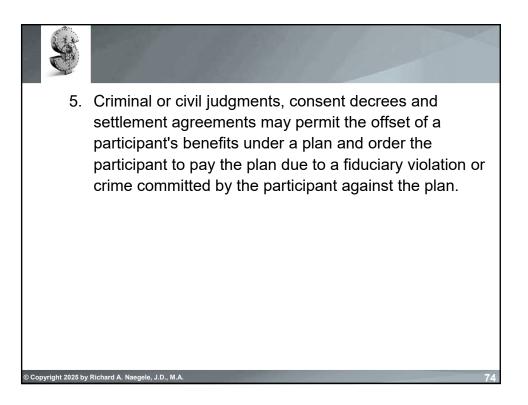


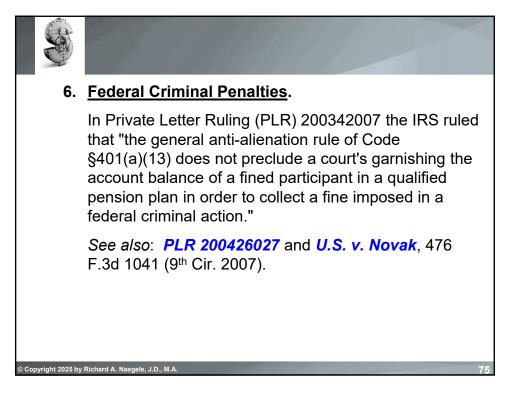


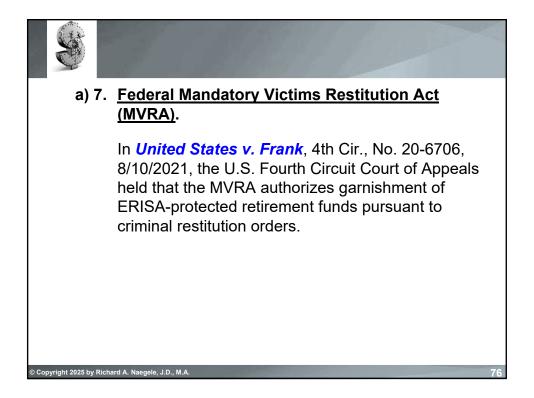
d. In CCA 201927019, the IRS Chief Counsel's Office stated that the procedures for levying on funds in retirement plans are found in IRM 5.11.6.3.

e. IRM 5.11.6.3 provides:

(8) The taxpayer may be able to withdraw money in a lump sum from a retirement plan. If the taxpayer is eligible to receive such a withdrawal, then a levy can reach that right. However, remember that a levy only reaches the taxpayer's present rights under the plan. This means that a current levy can reach a taxpayer's vested present rights under a plan, but a levy does not accelerate payment and it is only enforceable when the taxpayer is eligible to receive the benefits. The terms of the plan may need to be reviewed to determine a taxpayer's present rights.





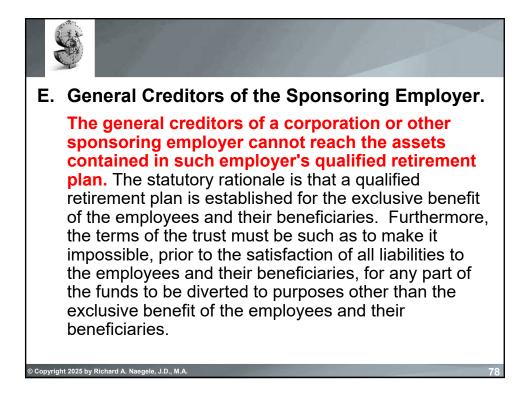


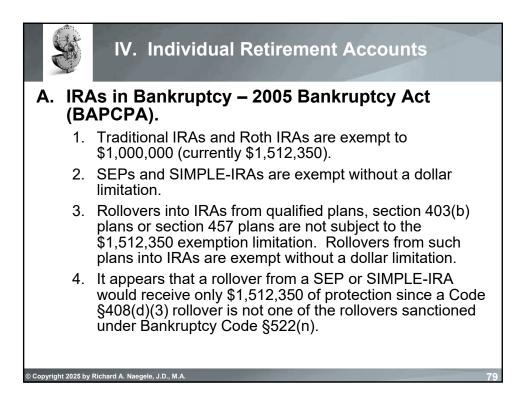


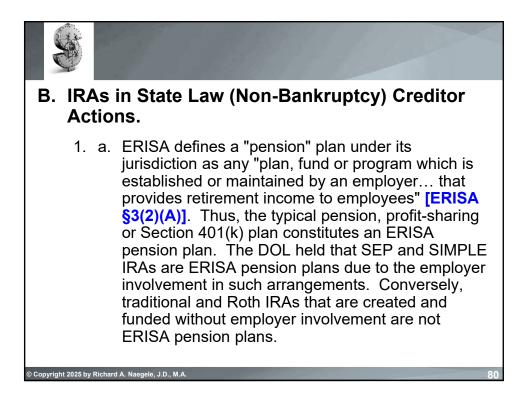
D. ERISA Preemption.

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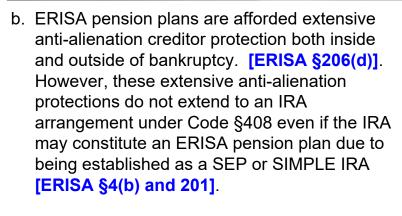
The anti-alienation provisions of ERISA are given force by the preemption provisions also contained in ERISA. ERISA §514(a) provides that the provisions of ERISA supersede state laws insofar as such laws relate to employee benefit plans. The ERISA anti-alienation and preemption provisions combine to make state attachment and garnishment laws inapplicable to an individual's benefits under an ERISA-covered employee benefit plan.

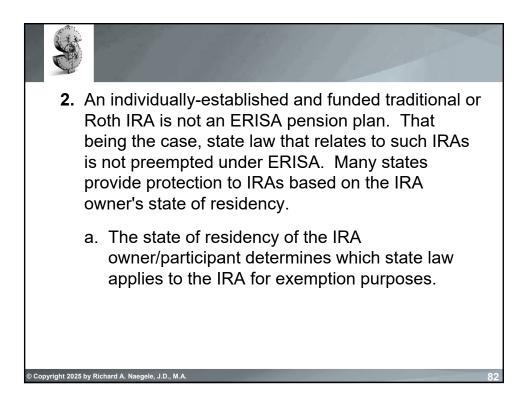


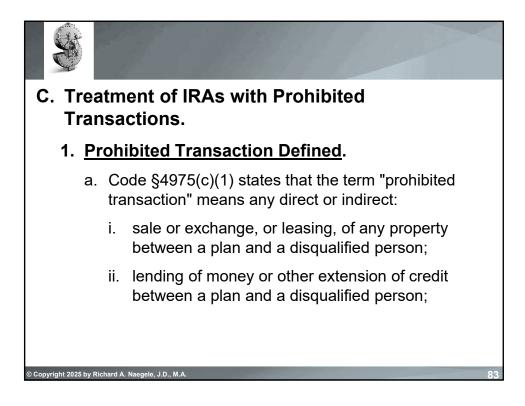


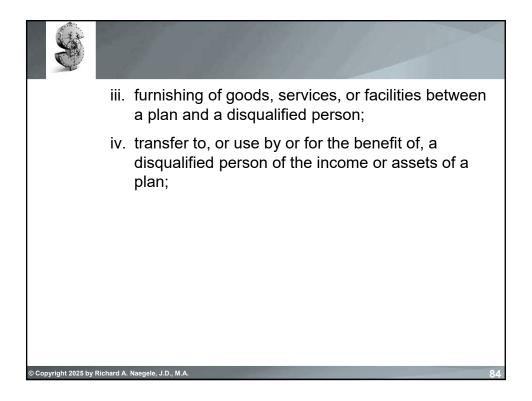


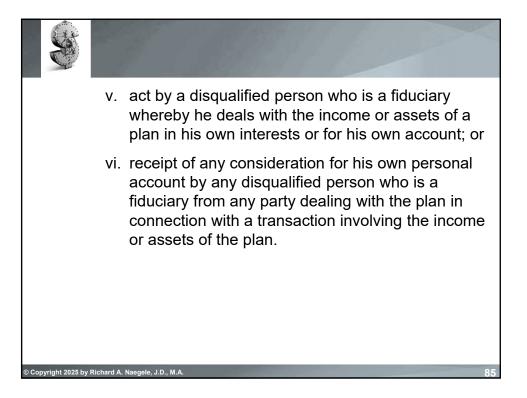


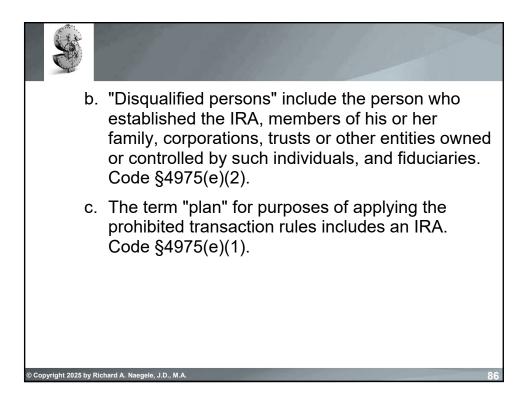


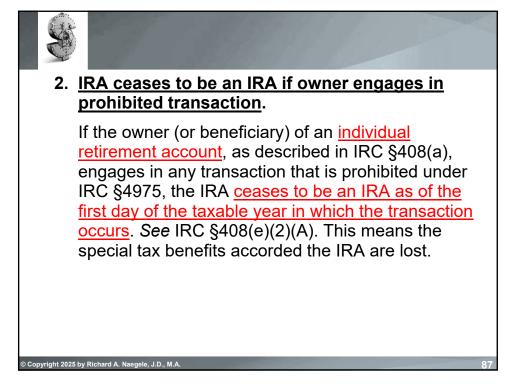


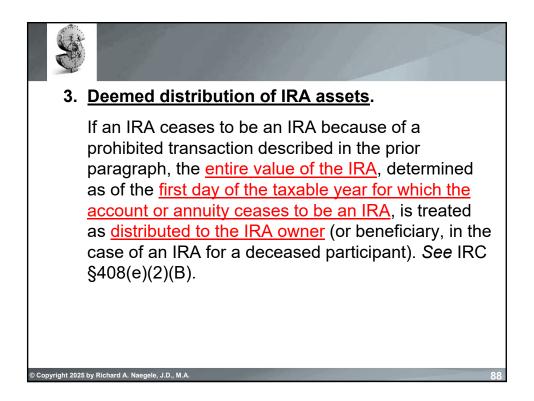


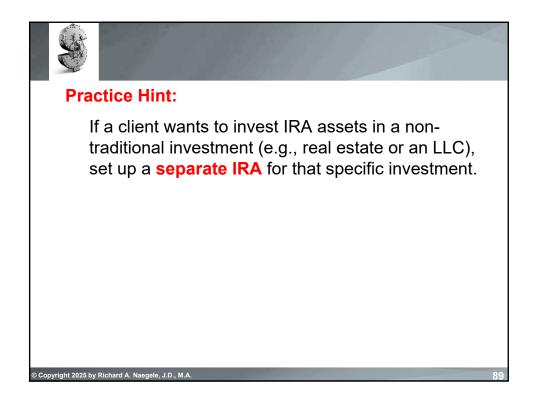


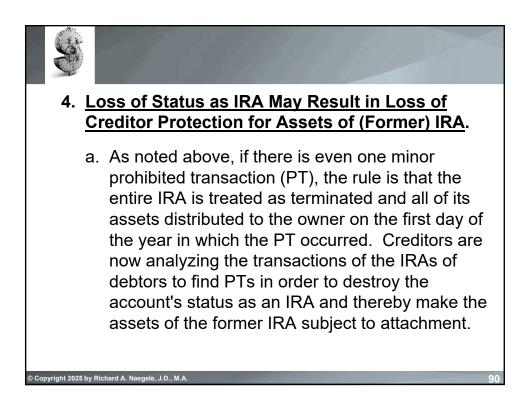


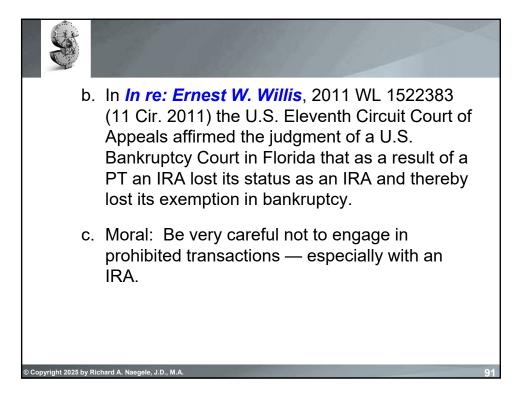












State-By-State Analysis	
of Individual Retirement Accou	nts
As Exempt Property*	

STATE	STATE STATUTE	IRA EXEMPT	ROTH IRA EXEMPT	SPECIAL STATUTORY PROVISIONS
Alabama	Ala. Code §19-3B-508	Yes	Yes	
Alaska	Alaska Stat. §09.38.017	Yes	Yes	The exemption does not apply to amounts contributed within 120 days before the debtor files for bankruptcy. Alaska provides a specific exemption for inherited IRAs.
Arizona	Ariz. Rev. Stat. Ann. §33-1126(B)	Yes	Yes	The exemption does not apply to a claim by an alternate payee under a QDRO. The interest of an alternate payee is exempt from claims by creditors of the alternate payee. The exemption does not apply to amounts contributed within 120 days before a debtor files for bankruptcy. Arizona provides a specific exemption for inherited IRAs.
and SIMPLE However, rol bankruptcy.	assets are protected v llover assets in an IRA	with no dollar lin are not subject a law for protect	nitation. IRAs to the \$1,512	ion Act of 2005 (BAPCPA), qualified plan, SEP, and Roth IRAs are protected to \$1,512,350. ,350 limit. BAPCPA only applies to assets in sets in state law (<i>e.g.</i> , garnishment) actions or
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STATE	STATE STATUTE	IRA EXEMPT	ROTH IRA EXEMPT	SPECIAL STATUTORY PROVISIONS
Arkansas	Ark. Code Ann. §16-66-220	Yes	Yes	A bankruptcy court held that the creditor exemption for IRAs violates the Arkansas Constitution — at least with respect to contract claims.
California	Cal. Code of Civ. Proc. §704.115	Limited	Limited	IRA's are exempt only to the extent necessar to provide for the support of the judgment debtor when the judgment debtor retires and for the support of the spouse and dependents of the judgment debtor, taking into account al resources that are likely to be available for the support of the judgment debtor when the judgment debtor retires. Inherited IRAs are NOT exempt. <i>In re: Terry Lynn Ponte</i> , Case No. 23-10148 WJL, Bankr. N.D.CA. (2/1/2024)."
Colorado	Colo. Rev. Stat. §13-54-102	Yes	Yes	Any retirement benefit or payment is subject to attachment or levy in satisfaction of a judgment taken for arrears in child support; any pension or retirement benefit is also subject to attachment or levy in satisfaction o a judgment awarded for a felonious killing.
Connecticut	Conn. Gen. Stat. §52-321a	Yes	Yes	IRA exemption for both participants and beneficiaries includes inherited IRAs. <i>In re:</i> <i>Archambault</i> , Bankr. Ct. D. Conn. 2019.

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STATE	STATE STATUTE	IRA EXEMPT	ROTH IRA EXEMPT	SPECIAL STATUTORY PROVISIONS
Delaware	Del. Code Ann. Tit. 10, §4915	Yes	Yes	An IRA is not exempt from a claim made pursuant to Title 13 of the Delaware Code, which Title pertains to domestic relations order. Delaware provides a specific exemption for inherited IRAs.
Florida	Fla. Stat. Ann. §222.21	Yes	Yes	IRA is not exempt from claim of an alternate payee under a QDRO or claims of a surviving spouse pursuant to an order determining the amount of elective share and contribution. Florida provides a specific exemption for inherited IRAs.
Georgia	Ga. Code Ann. §44-13-100	Limited	Limited	IRA's are exempt only to the extent necessar for the support of the debtor and any dependent. Inherited IRA NOT exempt. <i>In re: Terry D.</i> <i>Johnson</i> , Case No. 16-54167 SMS, Bankr. N.D. GA. (11/3/2022).

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STATE	STATE STATUTE	IRA EXEMPT	ROTH IRA EXEMPT	SPECIAL STATUTORY PROVISIONS
Hawaii	Haw. Rev. Stat. §651-124	Yes	Yes	The exemption does not apply to contributions made to a plan or arrangement within three years before the date a civil action is initiated against the debtor. Exemption does not apply to a QDRO.
ldaho	Idaho Code §55-1011	Yes	Yes	The exemption only applies for claims of judgment creditors of the beneficiary or participant arising out of a negligent or otherwise wrongful act or omission of the beneficiary or participant resulting in money damages to the judgment creditor.
Illinois	III. Rev. Stat. Ch. 735, Para. 5/12-1006	Yes	Yes	Inherited IRAs are not exempt. <i>In re:</i> <i>Marriage of Branit</i> , (III. App. Ct. 1st Dist.) 05/14/2015; <i>In re: Penny v. Hamm</i> , Bankr. N.D. III. (7/9/2018).
Indiana	Ind. Code §34-55-10-2	Yes	Yes	Indiana provides a specific exemption for inherited IRAs.
lowa	Iowa Code §627.6	Yes	Yes	Inherited IRA NOT exempt. <i>Muff v. Paige</i> , No.21-1904, Iowa Ct. App. (9/21/2022).

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STATE	STATE STATUTE	IRA EXEMPT	ROTH IRA EXEMPT	SPECIAL STATUTORY PROVISIONS
Kansas	Kan. Stat. Ann. §60-2308	Yes	Yes	Inherited IRAs are not exempt. <i>In re:</i> <i>Mosby v. Clark</i> , 2015 WL 6610988 (D.C. Kan. 10/30/2015). Exemption does not apply to a QDRO.
Kentucky*	Ky. Rev. Stat. Ann. §427.150(2)(f)	Yes	Yes	The exemption does not apply to any amounts contributed to an individual retirement account if the contribution occurred within 120 days before the debto filed for bankruptcy. The exemption also does not apply to the right or interest of a person in individual retirement account to the extent that right or interest is subject to a court order for payment of maintenance or child support.
Louisiana	La. Rev. Stat. Ann. Sects. 20-33(1) and 13-3881(D)	Yes	Yes	No contribution to an IRA is exempt if mad less than one calendar year from the date of filing bankruptcy, whether voluntary or involuntary, or the date writs of seizure are filed against the account. The exemption also does not apply to liabilities for alimony and child support.

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STATE	STATE STATUTE	IRA EXEMPT	ROTH IRA EXEMPT	SPECIAL STATUTORY PROVISIONS
Maine	Me. Rev. Stat. Ann. Tit. 14, §4422(13)(A)	Limited	Limited	IRAs are exempt only to the extent reasonably necessary for the support of the debtor and any dependent.
Maryland	Md. Code Ann. Cts. & Jud. Proc. §11-504(h)	Yes	Yes	IRA's are exempt from any and all claims or creditors of the beneficiary or participant other than claims by the Department of Health and Mental Hygiene.
Massachusetts	Mass. Gen. L.Ch. 235, §34A	Yes	Yes	The exemption does not apply to an order of court concerning divorce, separate maintenance or child support, or an order of court requiring an individual convicted of a crime to satisfy a monetary penalty or to make restitution, or sums deposited in a plan in excess of 7% of the total income of the individual within 5 years of the individual's declaration of bankruptcy or entry of judgment.

STATE	STATE STATUTE	IRA EXEMPT	ROTH IRA EXEMPT	SPECIAL STATUTORY PROVISIONS
Michigan*	Mich. Comp. Laws 600.6023	Yes	Yes	The exemption does not apply to amounts contributed to an individual retirement account or individual retirement annuity if the contribution occurs within 120 days before the debtor files for bankruptcy. The exemption also does not apply to an order of the domestic relations court
Minnesota	Minn. Stat. §550.37	Limited	Limited	Exempt to a present value of \$75,000 and additional amounts reasonably necessary to support the debtor, spouse or dependents. It appears that inherited IRAs are included in the overall \$75,000 exemption amount.
Mississippi	Miss. Code Ann. §85-3-1	Yes	No	Mississippi provides a specific exemption for inherited IRAs. Mississippi provides a specific exemption

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STATE	STATE STATUTE	IRA EXEMPT	ROTH IRA EXEMPT	SPECIAL STATUTORY PROVISIONS
Missouri	Mo. Rev. Stat. §513.430	Yes	Yes	If proceedings under Title 11 of United States Code are commenced by or against the debtor, no amount of funds shall be exempt in such proceedings under any plat or trust which is fraudulent as defined in Section 428.025 of the Missouri Code, and for the period such person participated within 3 years prior to the commencement of such proceedings. Missouri provides a specific exemption for inherited IRAs.
Montana	Mont. Code Ann. §31-2-106(3)	Yes	No	The exemption excludes that portion of contributions made by the individual within one year before the filing of the petition of bankruptcy which exceeds 15% of the gross income of the individual for that one-year period. Inherited IRAs are NOT exempt. <i>In re: Golz</i> , 360 P.3d 1142 (Mont. S. Ct. 2015).
Nebraska	Neb. Rev. Stat. §25-1563.01	Limited	Limited	The debtor's right to receive IRAs and Roth IRAs is exempt to the extent reasonably necessary for the support of the Debtor and any dependent of the Debtor.

STATE	STATE STATUTE	IRA EXEMPT	ROTH IRA EXEMPT	SPECIAL STATUTORY PROVISIONS
Nevada	Nev. Rev. Stat. §21.090(1)(r)	Yes	Yes	The exemption is limited to \$1,000,000 in present value held in an individual retirement account, which conforms with Section 408 and 408A.
New Hampshire	N.H. Tit. 52 §511:2	Yes	Yes	Exemption only applies to extensions of credit and debts arising after January 1, 1999.
New Jersey	N.J. Stat. Ann. 25:2-1(b)	Yes	Yes	Inherited IRAs are excluded in bankruptcy. In re: Norris, 550 B.R. 271 (Bankr. D. N.J. 2016); In re: Andolino, 525 B.R. 588 (Bank D. N.J. 2015).
New Mexico	N.M. Stat. Ann. §42-10-1, §42-10-2	Yes	Yes	A retirement fund of a person supporting himself / herself or another person is exempt from receivers or trustees in bankruptcy or other insolvency proceedings, fines, attachment, execution or foreclosure by a judgment creditor.



STATE	STATE STATUTE	IRA EXEMPT	ROTH IRA EXEMPT	SPECIAL STATUTORY PROVISIONS
New York	N.Y. Civ. Prac. L. and R. §5205(c)	Yes	Yes	Additions to individual retirement accounts are not exempt from judgments if contributions were made after a date that is 90 days before the interposition of the claim on which the judgment was entered.
North Carolina	N.C. Gen. Stat. §1C-1601(a)(9)	Yes	Yes	North Carolina provides a specific exemption for inherited IRAs.
North Dakota	N.D. Cent. Code §28-22-03.1(7)	Limited	Limited	The account must have been in effect for a period of at least one year. Each individual account is exempt to a limit of up to \$100,000 per account, with an aggregate limitation of \$200,000 for all accounts. The dollar limit does not apply to the extent the debtor can prove the property is reasonably necessary for the support of the debtor, spouse, or dependents.

STATE	STATE STATUTE	IRA EXEMPT	ROTH IRA EXEMPT	SPECIAL STATUTORY PROVISIONS		
Ohio*	Ohio Rev. Code Ann. §2329.66(A)(10)	Yes	Yes	Ohio provides a specific exemption for inherited IRAs.		
Oklahoma	Okla. Stat. Tit. 31, §1(A)(20)	Yes	Yes			
Oregon	OR. Rev. Stat. 18.358	Yes	Yes	Unless otherwise ordered by a court, 75% of a beneficiary's interest in a retirement plan, or 50% of a lump sum retirement plan disbursement or withdrawal shall be exempt from execution or other process arising out of a support obligation.		
Pennsylvania	42 PA. Cons. Stat. §8124	Yes	Yes	The exemption does not apply to amounts contributed to the retirement fund in exces of \$15,000 within a one year period and amounts contributed within one year before the debtor filed for bankruptcy.		
Rhode Island	R.I. Gen. Laws §9-26-4	Yes	Yes	The exemption does not apply to an order of court pursuant to a judgment of divorce or separate maintenance, or an order of court concerning child support.		

STATE	STATE STATUTE	IRA EXEMPT	ROTH IRA EXEMPT	SPECIAL STATUTORY PROVISIONS
South Carolina	S.C. Code Ann. §15-41-30	Yes	Yes	South Carolina provides a specific exemption for inherited IRAs.
South Dakota	S.D. Cod. Laws 43-45-16; 43-45-17	Limited	Limited	Exempts "certain retirement benefits" up to \$1,000,000. Cites §401(a)(13) of Internal Revenue Code (Tax-Qualified Plan Non- Alienation Provision). Subject to the right of the State of South Dakota and its political subdivisions to collect any amount owed to them.
Tennessee*	Tenn. Code Ann. §26-2-105	Yes	Yes	Not exempt from claims of an alternate payee under a QDRO.
Texas	Tex. Prop. Code Ann. §42.0021	Yes	Yes	Texas provides a specific exemption for inherited IRAs.

STATE	STATE STATUTE	IRA EXEMPT	ROTH IRA EXEMPT	SPECIAL STATUTORY PROVISIONS
Utah	Utah Code Ann. §78B-5-505	Yes	Yes	The exemption does not apply to amounts contributed or benefits accrued by or on behalf of a debtor within one year before th debtor files for bankruptcy. Exemption does not apply to an alternate payee under a QDRO. Utah provides a specific exemption for inherited IRAs.
Vermont	Vt. Stat. Ann. Tit. 12 §2740(16)	Yes	Yes	Non-deductible traditional IRA contributions plus earnings are not exempt.
Virginia	Va. Code Ann. §34-34	Yes	Yes	Exempt from creditor process to the same extent permitted under federal bankruptcy law. An IRA is not exempt from a claim of child or spousal support obligations.
Washington	Wash. Rev. Code §6.15.020	Yes	Yes	

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STATE	STATE STATUTE	IRA EXEMPT	ROTH IRA EXEMPT	SPECIAL STATUTORY PROVISIONS
West Virginia	W.Va. Code §38-10-4	Yes	No	IRAs are exempt only to the extent reasonably necessary for the support of the debtor and any dependent.
Wisconsin	Wis. Stat. §815.18(3)(j)	Yes	Yes	The exemption does not apply to an order of court concerning child support, family support or maintenance, or any judgments of annulment, divorce or legal separation.
Wyoming	Wyo. Stat. §1-20-110	No	No	Wyoming provides a specific exemption for inherited IRAs.

⁶ Kentucky, Michigan, Ohio, and Tennessee: The U.S. Court of Appeals for the Sixth Circuit ruled in *Lampkins v. Golden*, 28 Fed. Appx. 409 (6th Cir. 2002) that a Michigan statute exempting SEPs and IRAs from creditor claims was preempted by ERISA. The decision appears, however, to be limited to SEPs and SIMPLE-IRAs.

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