ED SLOTT'S IRA ADVISOR

February 2012

TAX & ESTATE PLANNING FOR YOUR RETIREMENT SAVINGS

Prohibited Transaction Relief for IRA Owners Who Signed Broker Indemnification Agreements

IRS Announcement 2011-81

On December 12, 2011, IRS issued announcement 2011-81, which temporarily provides relief to certain taxpayers who have engaged in the prohibited transaction of extending credit between personal assets and IRA assets via a cross-collateralization agreement. The relief comes after a pair of Department of Labor Advisory Opinion Letters reinforced that such agreements would be considered an extension of credit between an IRA owner and his or her IRA, and therefore, a prohibited transaction.

Extension of Credit Between an IRA and an IRA Owner

In order to enjoy the tax-deferred growth offered by an IRA, IRA owners must abide by certain rules. One of those rules is that they must avoid engaging in what are known as prohibited transactions. There are a number of prohibited transactions, but they all carry the same tax consequences if one occurs; the entire IRA in which the prohibited transaction occurred is deemed to have been distributed on January 1st of the year in which the prohibited transaction first took place. That means the loss of all future tax deferral, immediate taxation of the whole account and assessment of the 10% penalty for early distributions if the owner was under 59½ at the time.

One of the prohibited transactions that has raised concern recently is the rule preventing the lending of money or other extension of credit between a plan and a disqualified person. An IRA is prohibited from extending or receiving credit (borrowing or lending money) from any disqualified person, which includes among other individuals, anyone acting in a fiduciary capacity with regards to the

WHAT'S INSIDE?