



### **Case of the Week: Bankruptcy Protection**

#### **If my client rolls over his 401(k) to an IRA, is it protected from the claims of creditors if he files for bankruptcy at a later date?**

Our ERISA consultants on the Columbia Management Learning Center Resource Desk regularly receive calls from financial advisors who have questions about the protection of retirement assets when a client has filed bankruptcy.

Through our relationship with the Columbia Management Learning Center, we routinely guide Columbia Management's financial advisor partners through the IRS and/or Department of Labor rules and regulations that govern the protection of their clients' retirement plan assets in bankruptcy situations.

A recent call with an Ameriprise advisor in Massachusetts is representative of a common bankruptcy protection inquiry. The advisor's client was thinking about rolling his 401(k) assets into an IRA but was concerned about the safety of those assets in the event he should declare bankruptcy. The advisor wondered: **If my client rolls over his 401(k) to an IRA, is it protected from the claims of creditors if he files for bankruptcy at a later date?**

#### Highlights of Recommendations

- The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, effective October 17, 2005, clarified the level of bankruptcy protection for retirement plan assets.
- Assets in a defined contribution (including a 401(k) plan), defined benefit or 403(b) plan are protected from bankruptcy in their entirety with no limit.
- Contributory assets in a traditional or Roth IRA are protected from bankruptcy up to the limit of \$1,000,000.
- Assets rolled over from a 401(k) plan to an IRA retain the unlimited bankruptcy protection given to them while held in the 401(k) plan.
- Simplified employee pension (SEP) and savings incentive match plan for employees (SIMPLE) IRA plan assets are protected without limit.

#### Conclusion

The bankruptcy protection rules for retirement plan and IRA assets vary slightly. With the expert guidance of the Columbia Management Learning Center, advisors can confidently assist their clients in helping them understand how their retirement plan and IRA balances could be affected in bankruptcy.