Retirement

Sub: Inherited Property & MRD

Pl. advise on following questions.

1) INHERITED PROPERTY : What are the rules for bringing money back to USA from India after selling inherited property? Limit? Taxes? in India and here.

2) IRA A/C : Required Minimum Distribution (RMD) depends on 31 Dec. IRA A/C balance. What is the time window to withdraw the amount from IRA A/C and RMD in 2013?

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From: Mohan Bhujle
Date: Wed, Jan 2, 2013 at 12:24 PM
Subject: Answer to your question on MRD from Fidelity.com
To: Nanda Padte <club55nj@gmail.com>

IRA FAQs: Minimum Required Distributions (MRDs)

General information

What are MRDs?

Beginning for the calendar year in which you turn age 70½, you are generally required to withdraw a minimum amount of money from your tax-advantaged retirement accounts each year. This amount is called a minimum required distribution (MRD). You can always take more than the MRD amount if you want.

You generally have to take MRDs from any retirement account in which you contributed tax-deferred assets or had tax-deferred earnings. These accounts include:

Traditional IRAs

Rollover IRAs

SIMPLE IRAs

SEP IRAs

Most Keogh accounts

Most 401(k) and 403(b) plans

Inherited IRAs have special rules for MRDs and the required distributions are time-sensitive, usually beginning in the year after the year of death of the original owner. If you have inherited an IRA, see Required withdrawals for your Inherited IRA or call an inheritance specialist at 800-544-0003.

Are there any exceptions?

One exception is Roth IRAs. You are not required to take MRDs from your Roth IRA during your lifetime, and you cannot satisfy your Traditional IRA MRD requirement with a withdrawal from a Roth IRA.

Another exception is retirement plan accounts, if you are still working. If you continue to work beyond age 70½, and do not own more than 5% of the business you work for, you may be able to defer taking MRDs from your current employer's Keogh, 401(k), 403(b), or other employer-sponsored retirement plan until April 1 of the calendar year after the year in which you retire. Please consult your plan administrator to learn more.

Calculating your MRD

How do I calculate my MRD?

Generally, your MRD is determined by dividing the adjusted market value of

your tax-deferred retirement account as of December 31 of the prior year by an applicable life expectancy factor taken from the Uniform Lifetime Table (PDF). MRDs are taxed as ordinary income for the tax year in which they are taken and will be taxed at your applicable individual federal income tax rate. MRDs may also be subject to state and local taxes. If you made non-deductible contributions to your IRA, you must calculate your MRD based on the total balance, but your taxable income may be reduced proportionately for the after-tax contributions. Please consult a tax advisor to learn more.

What if I made non-deductible contributions to my IRA?

Regardless of whether or not you made non-deductible contributions, you must take the MRD. If you have made non-deductible, after-tax Traditional IRA contributions (or if your account includes any after-tax rollover amounts), you will not have to pay taxes on the portion of your distribution that represents after-tax contributions, provided you have filed IRS Form 8606 each year you made a non-deductible contribution. Remember, you will owe taxes on any earnings on those contributions. Check with your tax advisor on what portion of your account is from non-deductible contributions.

Taking your first MRD

When should I take my first MRD?

You generally have until April 1 of the year following the calendar year you turn age 70½ to take your first MRD. This is known as your required beginning date (RBD). In subsequent years, the deadline is December 31. If you turned 70 between July 1 of last year and June 30 of this year, you will be turning 70½ this year and will need to take your first MRD for this year.

How should I time my first MRD when it comes to taxes?

If you take your first MRD between January 1 and April 1 of the year after you turn age 70½, you still need to take your second MRD by December 31 of the same year. Since IRA and Keogh distributions are taxed as ordinary income, this may push you into a higher tax bracket. Also note that if you take your MRD between January 1 and April 1 of the year after you turn age 70½, your December 31 account balance is not reduced by the amount of the MRD taken

for the first MRD when calculating the amount of your second MRD. So, be sure to plan your first withdrawal carefully.

Taking your MRDs each year

How should I take my MRDs if I have multiple non-Roth accounts?

If you have more than one non-Roth IRA, you must calculate the MRD for each IRA separately each year. However, you may aggregate your MRD amounts for all of your non-Roth IRAs and withdraw the total from one IRA or a portion from each of your IRAs.

If you have qualified plan accounts, such as a 401(k) or 403(b), in addition to your IRAs, you must calculate and satisfy your MRDs for IRAs separately from your qualified plan accounts. If you have more than one qualified retirement plan account, you must calculate and satisfy your MRD requirements separately for each qualified plan account.

For example, if you have both a profit-sharing plan and a self-employed 401(k), you must separately calculate and withdraw an MRD from each plan. Also, MRDs for inherited IRAs must be satisfied separately from your other IRAs.

After you have fully retired from all employers it may be easier to consolidate your accounts into an IRA in order to make taking MRDs easier to manage. Consider rolling over your retirement accounts to Fidelity and managing your MRDs in one place.

What are the deadlines for taking MRDs?

You may withdraw your annual MRD in one distribution or make withdrawals periodically throughout the year, but the total annual minimum amount must be withdrawn by the deadline of December 31 (except for your first MRD, as explained above in “When should I take my first MRD?”).

What are the penalties if I miss a deadline?

The penalty for taking less than your MRD can be severe. If you withdraw less than the minimum required amount, the IRS may assess a penalty equal to 50% of the amount of the MRD not taken. If you missed taking MRDs, consider discussing your options with your tax advisor. You may be able to file for an exemption from the penalty by filing an IRS Form 5329. Consult your

tax advisor.

Do I have to take my MRD if I am still working?

Yes, with certain exceptions:

In some circumstances you may delay MRDs from any retirement plan for a current employer, such as a Keogh, 401(k), 403(b), or other employer-sponsored retirement plan account until you retire. If you are still working and have other tax-deferred retirement accounts in previous employers' plans, you must satisfy your MRD for those other accounts each year beginning when you reach age 70½.

Roth IRAs are also an exception, as they are not subject to MRDs while the original account owner is still living.

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From: Pradnya Ambekar
Date: Wed, Jan 2, 2013 at 1:36 PM
Subject: RE: QUESTIONS
To: Nanda Padte <club55nj@gmail.com>

If you are the owner of a traditional IRA, you must generally start receiving distributions from your IRA by April 1 of the year following the year in which you reach age 70½. April 1 of the year following the year in which you reach age 70½ is referred to as the required beginning date.

Distributions by the required beginning date. You must receive at least a minimum amount for each year starting with the year you reach age 70½ (your 70½ year). If you do not (or did not) receive that minimum amount in your 70½ year, then you must receive distributions for your 70½ year by April 1 of the next year.

The required minimum distribution for any year after the year you turn 70½ must be made by December 31 of that later year.

Example.

You reach age 70½ on August 20, 2011. For 2011, you must receive the required minimum distribution from your IRA by April 1, 2012. You must receive the required minimum distribution for 2012 by December 31, 2012.

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From: Jagdish Vasudev
Date: Wed, Jan 2, 2013 at 1:59 PM
Subject: Re: QUESTIONS
To: Nanda Padte <club55nj@gmail.com>

Nanda, I do not know anything about the first question.

RMD: If somebody reaches 70 1/2 in 2013, the person has upto April 1st 2014 to withdraw. This exception is ONLY available for the first payment. However, the person has to withdraw RMD for 2014 before Dec.31st 2014. Since RMD withdrawals are taxable, this is an important decision point.

Another important point, if you withdraw more than required, the excess amount cannot be carried forward. For Example:

If a person, based on IRS tables, is required to withdraw $10,000. Instead of withdrawing $10K withdraws $15K. He/She will be taxed on $15K. Every year, the amount will change based on the age of the investor and the balance in the IRA account.

I hope this is helpful.

Jagdish

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From: Prakash Gadkari
Date: Wed, Jan 2, 2013 at 4:11 PM
Subject: Re: QUESTIONS
To: Nanda Padte <club55nj@gmail.com>

Hi Nanda,

Here is what I know about your questions:

1) No idea about the tax rules in India but we could not bring Rs.
back to USA through any bank.

2) IRS rules require RMD to start in the calender year 70 1/2 years
age is reched. It would mean between Jan 1st & Dec. 31st of that year.
Our CPA had also mentioned that 1st year's distribution can be
combined with 2nd year's RMD. Normally institution (bank, mutual fund,
manged account advisor) holding IRA account will inform about RMD
shortly after age of 70 1/2 is reached.
Hope this information would help.

Regards,
-Prakash Gadkari

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Step by step guide for NRIs to sell inherited property in India

Part 1 of 2: In an earlier article we looked at how Non Resident Indians (NRIs) can transfer title on inherited property to their name. Having done that, selling inherited property can be quite challenging, especially if you have left India many years ago and are not familiar with the procedure.

In this two-part series, we outline the entire process step-by-step, beginning from the time you inherit the property. In part one, we will look at what documents you need, how you can arrive at the sale value and how to complete the sale transaction. In part two, we will look at tax implications and repatriation rules.

Step 1: Transfer title of inherited property to your name

When you inherit property, the first thing you must do is to transfer the title of the property to your name. You can do this by a process called 'mutation of revenue records.' You would need either a copy of the Will or in absence of a Will a Succession Certificate issued by the local court.

We have seen this process in detail in an earlier article. You can refer to it here.

Step 2: Get documents in order

Once you have transferred the title of the inherited property, you need to put together all the papers that are needed in order to sell the property. Here's a list:

- Original purchase agreement

This is the title document of the property.

- Original share certificate in case of residential unit in a co-operative society

A share certificate is issued by the co-operative housing society to each member. In case this certificate has been misplaced, the member must apply to the society for a duplicate. The member would need to indemnify the society for all costs and give an undertaking that the property is not mortgaged. He would also need to publish a notice in the newspaper and in the society notice boards so that it is clear that no objections exist.

- No objection certificate from the society

The certificate confirms that members of the society do not have any objections to the sale of the

apartment. It should also confirm that the seller has no default/outstanding payments to be made to the Society as of date. "Usually this is received once the buyer is finalized as the society gives an NOC stating that it does not have any problem in the owner selling the property to the buyer)," explains Amar Shah, Co-founder of property consultancy firm Golden Abodes.

- Copy of approved plan and occupation certificate issued by the concerned authority such as a municipal corporation

- Lawyer certificate

In the absence of originals of the above documents, the seller must approach a lawyer who would help him with a certificate to prove that he is indeed the rightful owner of the property. "The lawyer would take out a search and title report of the property. This report will track the owners of the property over the last 3-5 decades by tracking records in government registry offices. He will then place a public notice in a regional language and English/Hindi newspapers and wait for the prescribed period of time to see if anyone is claiming rights for the said property. After that, if the search and title report shows the seller as the final title bearer and no objections/claims are raised, he would issue a certificate mentioning that the seller is the rightful owner of the property" Shah explains.

- PAN number

A Permanent Account Number (PAN) is a must for all big ticket transactions in India. "An NRI must get a PAN for making the sale of property as after sale of property, it will be required to apply for Tax Exemption Certificate under section 197. If he does not have a PAN, he can apply for one by sending the signed application along with copies of ID and address proof documents," says Shah.

PAN application form is available here. Indian citizens can apply for PAN by using form 49A while foreign citizens can use form 49AA. You can furnish a foreign communication address while applying for your PAN card. Currently PAN cards are issued to addresses in select countries.

"In the absence of a PAN, the NRI can also furnish Form 60 at registrar office," adds Vaibhav Sankla, Director, H&R Block India.

Step 3: Identify your preferred sales method

In order to carry out the sale transaction, an NRI must decide whether he wants to do it himself or use the services of a professional company or firm. Unless you have close relatives or friends in India who you can trust, it might not make sense to venture out on your own. "The real estate space in India is unregulated. Property rates vary vastly even within a particular area. There is no license for brokers and the entire process can be cumbersome if one is not familiar with the market. The most important thing for a successful transaction is to be in the right hands," says Om Ahuja CEO - Residential Services, Jones Lang LaSalle India.

"Professional consultants help you make decisions such as whether to rent out the property or to sell it. Firms also usually have their empanelled lawyers and tax consultants to help you with issues such as obtaining duplicate copies of certificates, getting PAN etc.," Shah says.

These firms usually charge a percentage of the sales consideration as their fees and they provide end to end solutions including identifying a buyer, conducting due diligence, handling legal and tax issues etc. all the while maintaining the confidentiality of the seller. In case of Jones Lang LaSalle India for instance, brokerage charged is 2% plus applicable service tax of the sale consideration. Charges related to registration, advertisement and legal counsel fees is charged at actuals. In case of Golden Abodes, which is also into asset management for NRIs, Shah says the fee is 2% percent of the sale value plus all out of pocket expenses such as lawyer's fee, tax consultant's fee, associate broker's fees, etc.

"It's important that NRIs confirm brokerage fees upfront as most of them face challenge finalizing with brokers at a later stage. Transparency becomes a big challenge when it comes to sale transactions. NRIs get carried away with the price quoted by brokers and there is no authentic process to confirm the sale value. We have seen many times brokers build their margins over and above the sale value that NRIs may not realize," Ahuja advises.

Step 4: Complete the transaction

The actual sales process itself can be further divided into several steps. These include:

- Identifying the right sale value

If you are hiring a consultant, the firm would help you arrive at the right price. "We pick several data points in order to arrive at the right value. For instance, we may refer to the registered value of similar properties in the same area. However, that alone might not be fool proof because the value of cash transactions is not reflected. So we also use our in-house research reports for reference. We also compare values of similar properties in the surrounding area," Ahuja explains.

If you are going on your own, you would need to use similar data points.

- Managing the structure of the transaction

Use of cash in property transactions is quite common in India, something that NRIs usually do not want to deal with. "Things are changing in India," Ahuja and Shah both agree, "Today it is very much possible to sell property in India without any cash component."

- Issuing a Power of Attorney

"It is a misconception that the NRI will have to give complete power of attorney for all property related matters to someone in India. What the NRI would need to give is an 'Admit PoA.' The Admit PoA only says that while all the documents are executed by the owner, the PoA holder

would represent him in the registration office because of the NRIs inability to be present physically." Shah explains.

This means that all documents and certificates would need to be signed by the NRI himself and the PoA holder would only represent him for registration purposes.

Ahuja adds, "For NRIs, a PoA drafted in India and signed in person by the NRI in front of the Indian Consulate is acceptable by registrars. This PoA can be made in favour of a relative/friend to complete the registration process."

Remember that each firm may have its own process regarding this. For instance, Golden Abodes requires the NRI to visit India once to complete the Power of Attorney process. Shah says, "The NRI will have to come to India once to give us or any friend or relative the PoA. After that we will have all the documents ready and send it over to him for signature. Once he sends them back to us, the PoA holder will admit them for registration."

Jones Lang LaSalle India on the other hand prefers NRIs to visit to meet the buyer and register the documents. "We don't recommend NRIs signing 'admit PoA' in favour of brokers/consultants as this becomes a very risky proposition specifically in India. We recommend that NRIs visit India twice; once for finalizing the deal, to meet the buyer in person to build comfort and enter into Memorandum of Understanding and secondly to accept the final payment and complete the transaction. Facilitating through PoA is possible but we strongly recommend that NRIs meet the buyer in person. Considering the market is unregulated, the risk remains very high and ideally getting to meet in-person improves the comfort," says Ahuja.

- *Sort out tax issues*

Long term capital gains, that is, gains from an immovable property sold after 3 years of purchase, are taxed in India at 20.6%, including education cess. The benefit of basic exemption of Rs 200,000 is not available to NRIs on long term capital gains. Further, in case of NRIs, the buyer is required to deduct tax at source. This presents another set of complications for NRIs to which there is a solution and the tax deduction at source can be avoided. We will look at these in detail in the next part.

This brings us to the end of part one. In part two, we will look at how NRIs can overcome certain practical issues with respect to tax and repatriation of their sale proceeds

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Guide for NRIs: Tax and repatriation on sale of inherited property

The writer has posted comments on this articleDeepa Venkatraghvan | Oct 5, 2012, 06.48PM IST

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Part 2 of 2

In part one of this series, we took you through a step-by-step process to sell inherited property in India. Having zeroed in on a buyer and finalised the agreement, the next thing to look at is tax and repatriation. In this article, we see how NRIs can deal with these two issues.

Tax

If you sell the property after 3 years from the date of purchase, you will be liable for long term **capital gains tax** of 20%. The gains are calculated as the difference between sale value and indexed cost of purchase. Indexed cost of purchase is nothing but the cost of purchase adjusted to inflation. You can find the index here.

In case of inherited property, the date and cost of purchase for purposes of computing the period of holding as well as cost of purchase is taken to be the date and cost to the original owner. "While computing the amount of long term capital gains, the cost to the previous owner (i.e. the person from whom the property is inherited) would be considered as the cost of purchase. Though the plain reading of the law suggests otherwise, the courts have taken a view that the indexation benefit can start from the year in which the previous owner acquired the property," explains Vaibhav Sankla, Director, H&R Block India.

Index values are from financial year 1981-82 onwards. If the property was purchased prior to 1982, you would have to get the fair value of the property assessed as of April 1, 1982. This will be available from the valuation officer at the local municipal authority. In case you do not have records of the cost of purchase of the previous owner, you would have to get the valuation done by the municipal authority of the jurisdiction where the property is situated.

As an NRI, you will be subject to a TDS of 20% on the long term capital gains.

If you sell the property within 3 years of purchase, you will be liable for short term capital gains tax at your respective tax slab. Short term capital gain is calculated as the difference between the sale value and the cost of purchase (no indexation benefit is available). You will be subject to a TDS of 30% irrespective of your tax slab.

But there are certain instances when the NRI can get a waiver of the TDS such as if the NRI is

planning to re-invest the capital gains of the property in another property or in tax exempt bonds (discussed below). In such cases, the NRI will be exempt from tax in India and would not like to have TDS deducted.

"In such cases, the seller can apply to the income tax authorities for a tax **exemption** certificate. Remember that he must make this application in the same jurisdiction that his PAN belongs to. He will have to show proof of reinvestment of capital gains. If he is planning to buy another house, he would have to show the allotment letter or payment receipt. If he is planning to invest in capital gains bonds under section 54EC, he would need to submit an affidavit stating that he would invest the capital gain amount in to bonds. Usually, the buyer holds back the last installment of payment until this certificate of exemption is furnished to him by the seller. In case of bonds, the certificate usually mentions that the buyer can make the complete payment once the money is invested in bonds and receipt of investment is received," explains Amar Shah, Co-Founder of Golden Abodes.

Usually, a seller of property has up to 2 years from the date of sale to invest in another property or up to 6 months to invest in bonds. In case of NRIs however, if they would like to complete the transaction as soon as possible, they would need to complete either of these as early as possible.

The payer of the sale proceeds; even if he is an individual will be responsible for deducting tax at source and paying it to the Government. He must get a Tax **Deduction** Account number (TAN) and issue a TDS certificate for the same. What if the payer/buyer does not go through this process and fails to deduct tax? The onus of deducting tax is on the payer. So in case the individual does not deduct tax and the NRI too fails to declare the income and pay the tax, the **income tax** authorities can hold the payer responsible.

Tax exemptions

Section 54
According to section 54 of the Income **Tax Act**, if you sell a residential property (after 3 years from date of purchase) and purchase a residential house within 2 years from date of sale (or construct a residential house within 3 years from the date of sale), your gains will be exempt to the extent of the cost of new property. Suppose your capital gains is Rs 30 lakh and the new property is for Rs 20 lakh, then Rs 10 lakh will be treated as long term capital gains.

The residential property that you sell may either be a self-occupied property or one that was given on rent. Further, the new property must be held for at least 3 years.

Now an important question that NRIs have: Can you invest the proceeds in a foreign property and still avail the benefit of section 54? "The appellate authorities have held that exemption can be claimed under section 54 even if the new house is purchased outside of India. However, a contrary view exists too," Sankla says. So it might be best to consult an expert for your individual circumstance before you take the decision.

Section 54EC
According to section 54EC of the Income Tax Act, if you sell a long term asset, in this case, the

residential property (after 3 years from date of purchase) and invest the amount of capital gains in bonds of NHAI and REC, within six months of date of sale, you will be exempt from paying capital gains tax. Your bonds will remain locked in for a period of 3 years. The total amount which can be invested in such bonds cannot exceed INR 50 lakh per financial year. Lastly, if the amount invested in such bonds is less than the amount of long term capital gains then only a proportionate exemption is available.

Section 54F
According to section 54F of the Income Tax Act, if you sell an asset, other than a residential house, say a residential plot (after 3 years from date of purchase), and purchase a residential house within 2 years from date of sale (or constructs a residential house within 3 years from the date of sale), your gains will be exempt. "Note that if the cost of the residential house is less than the amount of capital gains then only a proportionate exemption is available. Further, to be eligible to **claim exemption**, you should not own more than one residential house at the time of the sale of the asset. Further, the house purchased/constructed for claiming exemption should be held for at least 3 years and no additional residential house (apart from the one purchased/constructed for claiming tax exemption) should be purchased within 2 years (or constructed within 3 years)," Sankla explains.

Repatriation
General permission is available to NRIs and PIOs to repatriate the sale proceeds of property inherited from a person resident in India subject to the conditions mentioned below. If those conditions are fulfilled, the NRI need not seek permission from the RBI. However, if the property has been inherited by an NRI from a person resident outside India, then the NRI must seek specific permission from the RBI

Conditions for repatriation in case of property inherited from person resident in India:
*The amount of repatriation should not exceed USD 1 million per financial year
*The NRI must produce documentary evidence in support of the inheritance and an undertaking and certificate by a Chartered Accountant in the formats prescribed by the Central Board of Direct **Taxes**
*In cases of deed of settlement made by either of his parents or a close relative (as defined in section 6 of the Companies Act, 1956) and the settlement taking effect on the death of the settler the original deed of settlement and a tax clearance / No Objection Certificate from the Income-Tax Authority should be produced for the remittance
*Where the remittance as above is made in more than one installment, the remittance of all such installments shall be made through the same Authorised Dealer

Which account will the sales proceeds be credited into? Sankla explains, "The sale proceeds of inherited property have to be credited to NRO account. An NRI may remit an amount not exceeding USD 1 million per financial year from out of his balances in his NRO accounts. The limit of USD 1 million per financial year includes sale proceeds of immovable properties. Remittance exceeding USD 1 million per financial year requires prior permission of the Reserve Bank."

Finally, Sankla gives these important tips, "Never forget to check the income tax implications in

the country of residence. Many countries tax their residents on their worldwide income. Some countries do provide partial or total exemption on capital gains arising on sale of a residential house if certain conditions are met. Most important point is, if there is income tax liability in the country of residence on the amount of gain then tax payer should re-evaluate if he should consider claiming exemption under section 54/54F/54EC. In such cases, the tax payer may be better off claiming only partial or no exemption in India on the capital gains."

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6 Ways Women Can Prepare for Retirement

Start putting yourself first and set goals for your savings
by Jean Setzfand, AARP

Women take care of others first - including taking time out of the workforce to care for children and ailing parents - can compromise their financial futures.

The time away from the workforce not only lowers women's lifetime earnings and savings, it also lowers their ultimate Social Security and Pension Benefits.

With all those gender-specific challenges, it boils down to six major action items :

1. DEFINE WHAT RETIREMENT MEANS TO YOU
The important thing is to write your retirement objectives down, listing the most important goals first.

2. FIGURE OUT YOUR SOCIAL SECURITY BENEFITS AND WHEN TO CLAIM THEM :
Social Security provides the biggest piece in retirement income. Working a little longer and delaying your claim will provide a much more secure retirement for life. Your benefit will automatically increase 8 % for each year you delay claiming.

3. CALCULATE HOW MUCH MONTHLY INCOME YOUR PERSONAL RETIREMENT SAVINGS WILL GENERATE FOR YOU :
There are basically two ways you can create income out of the lump sum sitting in your 401(k) or similar account. First you can try to live off the interest and preserve the principal so that it continues to earn interest for the rest of your life. You can use part of the lump sum to build your own " PENSION " of sorts by buying an Income Annuity. The annuity will provide you a guaranteed monthly check for life. No matter how long you live.

4. SET YOUR BUDGETS :
You need a current budget - to help you cut costs and pay off debt before you retire - and you need a retirement budget to make sure your monthly expenses do not exceed your monthly retirement.

5. FILL THE GAP :
There will be a gap between the money you will need in retirement and the income you will have in retirement. You may need to downsize, work longer or part time or convert your hobbies into money-making enterprises.

6. CONSIDER CHANGE :
You will find all kinds of stories of life change. Older workers with job openings at companies that value mature workers and their experience. There are also plenty of resources for people looking to reenter the workforce.

Club55NJ

For any feedback / questions on this information please contact Club 55 at
club55nj@gmail.com