Bob Carlson's
Guide to Inheriting IRAs

Avoiding the Traps and Maximizing the Wealth from Inheriting an IRA

Updated for the SECURE Act of 2019 and the February 2022 Proposed Regulations

By Bob Carlson

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The rules for inherited IRAs and other qualified retirement plans were overhauled by the Setting Every Community Up for Retirement Security (SECURE) Act, enacted in 2019. IRA owners and beneficiaries must know the new rules. They provide fewer alternatives to IRA beneficiaries and accelerate distributions from and the taxes due on most inherited IRAs and 401(k)s. In the SECURE Act, Congress made clear that IRAs and other retirement accounts are to help provide for the retirement of the original owner. The tax incentives of the accounts aren't meant to continue indefinitely for the next generation.

That's why the SECURE Act eliminated the Stretch IRA. The Stretch IRA wasn't a special type of IRA, such as a Roth IRA or SIMPLE IRA. The Stretch IRA was a strategy used by beneficiaries of IRAs.

While there's a great deal of information and guidance available to owners of Individual Retirement Arrangements (IRAs), there isn't much guidance available for those inheriting IRAs. The greatest information shortage is for the beneficiaries who inherit IRAs. Some of the biggest mistakes with IRAs are made after they pass to the second generation of owners.

For decades Congress established incentives that encouraged people to accumulate trillions of dollars in IRAs and other retirement plans. Then, just as the earliest Baby Boomers were reaching the age when they and their heirs need to be concerned about such issues, Congress changed the rules. The way IRAs are handled in the estate plans of their owners should be very different from how they were handled before the SECURE Act. Beneficiaries must learn very different rules from those that applied before 2020 and realize that they have fewer options than previous generations of IRA beneficiaries. The strategies that worked best before 2020 for both IRA owners and beneficiaries often aren't the best strategies after 2019.

The IRS issued proposed regulations implementing the SECURE Act in February 2022, and they probably will be finalized sometime in 2022. The proposed regulations are reflected in this report, and the final regulations might differ from the proposed regulations to some extent.

IRAs and other qualified retirement plans are treated uniquely when they pass from one generation to another. Retirement accounts are included in the taxable estates of their owners along with the other assets of the owners. They'll be subject to the federal estate tax, if the estate is valuable enough to be taxable, and any state version of that tax.

Heirs aren't subject to income or capital gains taxes on most other inherited assets. They don't owe federal taxes when they receive or sell the inherited assets. That's not the case with traditional IRAs, 401(k)s, and other retirement plans. There's no tax on a beneficiary who inherits a retirement account. But as the beneficiary takes distributions from an inherited retirement plan, the beneficiary pays income taxes on the distributions just as the previous owner would have, except the distributions are taxed at the beneficiary's income tax rate.

Beneficiaries don't inherit the market value of a traditional IRA or other retirement plan. They really inherit only the after-tax value. Because the taxes on the IRA can be significant, it's important that IRA owners and their beneficiaries know the rules for inherited IRAs so they can plan to maximize the after-tax value of the retirement accounts.

IRA custodians report that most heirs tend to withdraw all the money from an inherited IRA quickly, pay the income taxes, and spend the after-tax amount. If you're a beneficiary who plans to take that route, or an IRA owner whose beneficiaries will take that route, most of this report isn’t for you. This report is for families that want to maximize the after-tax value of inherited IRAs and make the wealth last.

This report also is for beneficiaries who are long-term oriented and prefer to take advantage of the tax-deferred compounding of the IRA, at least for a while. When beneficiaries prefer to use the IRA's tax deferral, they need to know the rules for required distributions from inherited IRAs. You can't just let the IRA continue to grow tax deferred for as long as you want. You have to take distributions and, if they’re from a traditional IRA, pay taxes on the distributions. Several factors determine when you have to take the distributions. This report explains how to determine when distributions will be required and other key facts about inheriting an IRA. (Keep in mind that in any year you can take out more from an inherited IRA than required.)

IRAs were supposed to be simple ways for people to put away extra money for retirement. Now, however, they are among the most valuable assets most people own. IRAs usually contain substantial sums when 401(k) accounts are rolled into them after retirement. The distribution phase is complicated enough for IRA owners, but IRAs can be even more troublesome for beneficiaries. The rules for inherited IRAs aren't intuitive, obvious, or well-publicized. So, most heirs don't know about them or even know to ask about them. Because of these factors, heirs routinely lose a large percentage of inherited IRAs to unnecessary taxes and penalties.

As I said earlier, the rules for inherited IRAs and other qualified retirement plans were overhauled by the SECURE Act. IRA owners and beneficiaries must know the new rules. The SECURE Act, enacted at the end of 2019, provides fewer alternatives to IRA beneficiaries and accelerates distributions from and the taxes due on inherited IRAs. In the SECURE Act, Congress made clear that IRAs and other retirement accounts are to help you provide for your retirement. The tax incentives of the accounts aren’t meant to continue indefinitely for the next generation.

Before the SECURE Act, beneficiaries were required to take annual required minimum distributions (RMDs) from inherited IRAs. The rest of the IRA could remain invested and compound tax deferred until the beneficiaries wanted it or needed it. If the beneficiary was young enough, the annual RMDs were less than the investment earnings on the IRA, so the IRA would increase in value over the years. That was known as a Stretch IRA. A well-managed Stretch IRA could deliver more after-tax wealth to the beneficiary after years of additional compounding than if the beneficiary had distributed the full IRA soon after it was inherited. A Stretch IRA could even be a foundation for the beneficiary’s retirement years after it was inherited.

But Congress wanted to end that practice. After the SECURE Act, most inherited IRAs must be distributed within 10 years after being inherited, which is known as the 10-year rule. I explain the new rules, the exceptions, and the strategies available in this report.

IRA owners also should read this report. They should know the choices that will face their beneficiaries. This might change the estate plans IRA owners make.

An estate plan isn't done until the owner ensures the heirs know how to manage their new IRAs and maximize the after-tax value. No one should assume the heirs will get good advice from the IRA custodian, an accountant, or other financial professional. Many IRA beneficiaries don't realize they should seek advice before acting.

In addition, IRA owners might decide to reposition their IRAs or change their estate plans to maximize the after-tax value heirs will receive from the IRAs. Estate planning ideas are beyond the scope of this report, but I've presented them in *Retirement Watch* and they should be reviewed by IRA owners. The estate planning strategies often have the dual benefit of reducing or eliminating required minimum distributions owners must take from traditional IRAs during their lifetimes.

We are in the early stages of the first generation to inherit significant IRAs, and not everyone is up to speed on the rules. IRA owners often don't know the rules that will apply to their heirs and fail to take actions that would increase the after-tax values their heirs inherit. IRA owners should get good advice and pass it on to heirs. Let them know your intentions and, most importantly, the rules. That way a large portion of your hard-earned wealth and careful plans won't be wasted on taxes and penalties.

In this report, beneficiaries learn the decisions that must be made soon after an IRA is inherited, how the choices differ for spouse and non-spouse beneficiaries, and the deadlines for taking action. They'll also learn options they have and how to decide which option is best for them. Also discussed are mistakes beneficiaries frequently make and how to avoid them.

The Importance of the Beneficiary Form

An IRA (and any other qualified retirement plan) is inherited by the beneficiary or beneficiaries who are named in the beneficiary designation form on file with the IRA custodian.

This is an important difference from most other assets.

A will or living trust normally has no effect on who inherits an IRA. Only the person or people designated as beneficiaries inherit the IRA.

There have been numerous court cases involving designations that weren't updated at the time of the IRA owner's death. Sometimes the named beneficiaries were ex-spouses or estranged relatives. Other times the named beneficiary was deceased. In other cases, the beneficiary designation form was completed when the IRA owner was a young adult, so siblings or parents were named beneficiaries. Many years later after the IRA owner married and had children, the form still wasn't updated. The siblings or parents were set to inherit instead of the surviving spouse or children.

In these cases, courts rarely allow the will, living trust, or additional facts to alter what's stated in the beneficiary designation form. It's important for the owner of an IRA or other qualified retirement plan to be sure the beneficiary designation form is updated and reflects the owner's current intentions. (Today, there often isn't a beneficiary designation form. Instead, a designation is made electronically through the custodian's web site.)

One exception to this rule is when the beneficiary designation refers to the will or living trust. I'll discuss that shortly Also, when the estate or a trust is named as the beneficiary, the terms of the will or trust agreement then will determine who inherits the IRA. But naming an estate or trust as the IRA beneficiary can have negative tax consequences, which I'll discuss later.

IRA owners often make the mistake of not designating a beneficiary or not updating the designation after a beneficiary passes away or there is some other change. When the beneficiary designation form isn't available or no beneficiary is designated, the custodian's rules determine who the beneficiary is. Most custodians say the default is for the estate to be the beneficiary, or the surviving spouse and then the estate if there is no surviving spouse. Rarely will the default rules allow the IRA to pass to the children before going through the estate.

To avoid problems, an IRA owner should keep the designations up to date, keep copies of beneficiary designation in a file that is easy to find, and let the executor and beneficiaries know where the forms are. Forms that are out-of-date should be disposed of or given an annotation such as "superceded." Beneficiaries or the executor should try to locate the latest beneficiary designation form before contacting the IRA custodian.

When the beneficiary is done online, the IRA owner still might want to print a copy of the completed designation. Online beneficiary designations still need to be reviewed regularly. The estate executor and other key individuals need to know how to access the IRA account, contact the IRA custodian, and begin the transfer to the designated beneficiaries.

An issue that’s usually a side issue but sometimes becomes important is the status an IRA custodian gives to the estate executor. IRA custodians are fiduciaries obliged to protect the accounts for the legal beneficiaries. They will allow access to the accounts only to those they are convinced are the lawful owners or beneficiaries or their representatives. The estate executor normally is in charge of locating all the retirement accounts, determining who the beneficiaries are, and notifying the beneficiaries. The executor also can contact the IRA custodian and facilitate the transfer of the IRA to the beneficiary.

But the executor might have no legal status regarding the IRA, and some IRA custodians limit the information they give executors and the actions they take at the executor's direction. They require direct contact with the beneficiary or an agent designated by the beneficiary, such as someone with a power of attorney. When preparing the estate plan, the IRA owner should ask the custodian its policy on the issue and prepare the executor and beneficiaries.

The Designated Beneficiary and Its Importance

A key figure in an inherited IRA is the Designated Beneficiary (DB), a status created in IRS regulations. The term Designated Beneficiary is purely a tax term and doesn’t apply in other aspects of administering the estate.

The DB is the person who is looked at to determine when distributions are required from the IRA. The IRA custodian determines who the DB is using IRS regulations and its own policies. The DB must be established by Sept. 30 of the year after the original IRA owner died.

To qualify as a DB, the beneficiary must be a natural person and must be among the named beneficiaries and contingent beneficiaries on the beneficiary designation form or online designation. When multiple individuals are named as co-beneficiaries, the oldest usually is the DB. Often the DB is obvious.

But to avoid requiring the IRA to be fully distributed in five years or less, all named beneficiaries and contingent beneficiaries must be able to qualify as DBs. That means they all must be individuals, or natural persons. When a non-individual is a beneficiary or potential beneficiary, there won’t be a DB and it won’t be possible to extend the tax deferral of the IRA. The IRA will have to be fully distributed within five years. Non-individuals who might be IRA beneficiaries or potential beneficiaries include the estate, a trust, a business entity, or a charity.

An individual does not have to be named specifically as a beneficiary to be a beneficiary and a valid DB. For example, the owner or the plan's documents can name a class of beneficiaries, such as "my children." Or the plan documents can look to the IRA owner's will, if it can be clearly determined from the will who the IRA beneficiary should be and that it is a natural person (or multiple natural persons). The keys are that we must be able to determine the beneficiaries from the plan documents, and the beneficiaries must be natural persons. Then, the DB must be from this group and must be an identifiable individual whose age can be determined.

Note that there are three potential disadvantages when an IRA has multiple primary beneficiaries. The first disadvantage is that if any of the named beneficiaries is not an individual, none of the beneficiaries qualifies as a DB.

The second disadvantage is that the life expectancy of the oldest beneficiary is used to determine the required distributions for all co-beneficiaries. This used to matter more before the SECURE Act than it does now, and it didn’t matter much when the beneficiaries were close in age. But it still might be important in some cases.

The third disadvantage is the beneficiaries must agree on management of the IRA, including investments and distributions exceeding the required minimum.

The disadvantages of multiple beneficiaries can be overcome if the beneficiaries agree to divide the IRAs into separate accounts, which is discussed later in this report. The beneficiaries are able to split the IRA tax free in most cases, or while he or she is alive the IRA owner can split the IRA into separate IRAs for each beneficiary tax free. When one of the beneficiaries isn’t a natural person, such as a charity, the problems with having a non-natural person as a beneficiary can be resolved by distributing that beneficiary’s share to it before the DB must be named so that the remaining beneficiaries all are natural persons.

Sometimes naming multiple primary and contingent beneficiaries is part of a good tax planning strategy. The surviving family members and their advisors can discuss which beneficiary or beneficiaries would be able to maximize the after-tax wealth of the the IRA. For example, family members who are receiving sufficient other assets or who are in high tax brackets might determine that it is not best for them to inherit part of a traditional IRA. It might be best for a family member with fewer assets or who is in the lowest tax bracket to inherit the IRA. Or when several generations are named beneficiaries, the older beneficiaries can decide it is better to leave the IRA to younger beneficiaries.

These maneuverings can be done through the use of a qualified disclaimer, which is discussed later in this report.

When no beneficiary is named in the IRA documents, the estate is likely to be the beneficiary, and in most cases that will require distribution of the IRA within five years of the owner's death.

An Inherited IRA Can Be Split Tax Free

Often an IRA owner will name two or more children or grandchildren as joint primary beneficiaries of the IRA. They might inherit equal shares or unequal shares, but they will inherit the IRA jointly. Owning the IRA jointly might not be best for them.

One reason joint ownership might be disadvantageous is each might have a different status under the required distribution rules. It might be better to split the IRA so that those with more favored status or longer life expectancy under the rules can maximize their advantages on their shares of the IRA.

Also, co-owners have to agree how to manage the investments, on a policy for taking distributions exceeding the required minimums, who the IRA custodian will be, and many other issues that can arise.

Fortunately, the IRS allows co-beneficiaries to split an inherited IRA into separate IRAs without any tax consequences. Each beneficiary can create a separate IRA with his or her share of the inherited IRA. Once separate IRAs are established, each beneficiary determines when distributions are required from his or her IRA based on his or her separate status under the rules. Or a beneficiary who doesn't want to use the IRA's tax deferral can take a full distribution of his or her IRA.

With separate IRAs, each beneficiary has full control over the investment policy, the distribution schedule, and other decisions. Most IRA custodians allow an inherited IRA to be split into separate IRAs for each beneficiary at little or no cost. The IRA owner who anticipates beneficiaries splitting an IRA should verify that the custodian will allow it, and then be sure the beneficiaries are aware of the option.

The IRA must be split into separate IRAs by Dec. 31 of the year following the year of the owner's death, if the beneficiaries want to establish distributions based on their own status. (The IRA still can be split after the Dec. 31 deadline, but the future distributions would be determined by the status of the beneficiary who is the DB, usually the oldest beneficiary.)

For an IRA split to be effective, the beneficiaries must split pro rata not only their shares of the IRA based on the value on the date of the owner's death, but also all income, gains, and losses that accrue after that date. They can't decide among themselves to share these items in any ratio other than their respective beneficiary shares.

Give the Inherited IRA the Right Title

The legal title, or account name, given to an inherited IRA is important, and many heirs don’t understand or appreciate the importance. This oversight often results in accelerated taxes and lost opportunities.

Heirs, other than a surviving spouse, should not make the mistake of changing the title of the IRA to their own names or allow the custodian to do so. Some IRA custodians simply ask the heirs what they want to do with the IRA and don't explain fully the consequences of the actions. Sometimes the beneficiary asks to have the IRA's ownership changed to his own name or asks the inherited IRA to be rolled over to an existing IRA of the beneficiary. Any of these actions is a serious mistake that eliminates the ability to maximize tax deferral from the IRA. In fact, any of these actions results in the IRA being considered to be fully distributed on that date and included in the beneficiary’s gross income in the year in which the action is taken. It’s also irreversible. If the beneficiary realizes the action was a mistake, there’s no grace period in which it can be undone.

Beneficiaries need to know that custodians are not there to give legal or financial advice to them. The beneficiaries must receive qualified, independent advice, and IRA owners can help by ensuring the beneficiaries have a source of such advice. Otherwise, thousands of dollars could be lost to unnecessary or premature taxes because of decisions made by heirs who were not aware of the consequences.

When the inherited IRA is rolled over to a beneficiary’s IRA, there also might be a 6% excess contribution penalty for each year the money from the inherited IRA sits in the other IRA. When a non-spouse beneficiary transfers an inherited IRA to an existing IRA, that doesn't qualify as a tax-free rollover. The transaction is considered a contribution to the existing IRA after a distribution from the inherited IRA. Unless the inherited IRA balance is small enough to fit under the annual contribution limit and the beneficiary qualifies to make an IRA contribution, the rollover would be considered an excess contribution.

To avoid accelerating taxes and possibly triggering penalties, a beneficiary who is not the surviving spouse must continue the inherited IRA and have it properly re-titled.

An IRA inherited by a non-spouse beneficiary needs three things in its title for the heirs to be able to continue the tax deferral: the name of the owner who died; some language identifying it as an "IRA"; and the statement that it is "for the benefit of" the heir or a derivative of that phrase such as "FBO." An appropriate title is "Max Profits IRA (deceased), F/B/O Hi Profits, beneficiary.” Often the date on which the IRA owner passed away is included after “deceased.” Each IRA custodian has its own format for an inherited IRA title, but they are similar to this one and must have the key elements.

A surviving spouse, as we discuss later, may roll over an inherited IRA into an IRA in his or her own name. We discuss later when a spouse will want to do that and when he or she will want to continue the inherited IRA in the same manner as a non-spouse beneficiary.

Four Surprising Facts About Inherited IRAs

Both IRA owners and beneficiaries often are surprised to learn four tax law facts about inherited IRAs.

Fact one is that distributions from an inherited IRA are taxable to beneficiaries just as they would have been to the original owner. When most other assets are inherited, an heir generally receives title to an asset tax free, increases the basis to its current fair market value, and can sell it immediately tax free.

IRAs are different. There still are no income taxes when ownership of the IRA is transferred to the beneficiary. When distributions are made from a traditional IRA to the beneficiary, however, they are included in gross income just as they would have been for the original owner. Any after-tax contributions (nondeductible contributions) are not taxed when withdrawn. But distributions of pre-tax contributions and accumulated earnings and gains are taxed as ordinary income. The beneficiary of an inherited IRA receives only the after-tax value of the IRA, and the after-tax value depends on the beneficiary's (not the original owner's) income tax rate.

Fact two applies when the deceased owner was required to take minimum distributions at the time of his or her death. In that case, the RMD for the year of the owner's death must be taken and included in the owner’s gross income for the year before other actions are taken. If the RMD for that year was not already taken by the owner, the beneficiary must take it and include it in his or her gross income that year. One benefit of the proposed regulations issued under the

SECURE Act is that the 50% penalty on the beneficiary is waived if the beneficiary failed to take the RMD of the year the owner died but takes the RMD by the due date of his or her tax return for that year, including extensions.

Fact three is that beneficiaries must take distributions. A beneficiary can't simply let an inherited IRA compound tax-deferred until he or she is age 72 or is ready to take a distribution. The required distribution rules vary by the circumstances and are discussed later in this report. But a beneficiary needs to know that distributions are required. If they aren't begun on time, the forced distribution schedule is accelerated or penalties are imposed.

Fact four is that the distribution rules apply to both traditional IRA and Roth IRAs. Though distributions from an inherited Roth IRA are tax free, the Roth IRA must be distributed largely under the same rules as a traditional IRA. Employer defined contribution retirement plans, such as 401(k)s, also face the same rules with some modifications. I discuss the rules that apply to IRAs in this report, unless I specifically mention a special rule that applies to 401(k)s.

An Overview of the Old Rules for Inherited IRAs, Because Many Still Need to Know Them

The SECURE Act didn’t repeal the old rules covering inherited IRAs. Instead, it created new rules that are in addition to the old rules. The old rules still apply to anyone who inherited an IRA before 2020, and also to most of those who inherit an IRA after 2019 and aren’t subject to the 10-year distribution rule created in the SECURE Act. In addition, the old rules are relevant to some of those who inherit after 2019 and are subject to the 10-year rule.

The owner of an IRA who is doing estate planning should determine when the intended beneficiaries would be required to take distributions and then decide whether he or she wants to do additional planning that would make the outcome better for the beneficiaries and increase the amount of after-tax wealth they receive. I’ve discussed estate planning strategies in past issues of *Retirement Watch*, but they are beyond the scope of this report.

I’ll note again that the tax rules cover the maximum amount of time over which the inherited IRA can be distributed. In other words, the rules dictate the minimum amount that must be distributed from the IRA at different points in time. An IRA beneficiary always is free under the tax rules to take distributions exceeding the minimum, even to the point of fully distributing the IRA shortly after it is inherited. The rules discussed in this report generally are for people who prefer to continue using the tax deferral of the IRA for at least a while after it is inherited.

Here’s an outline of the main rules in effect before 2020.

A key to the rules was whether the IRA owner died before or after the required beginning date (RBD), which was the date he or she was required to begin taking minimum annual distributions from the IRA (RMDs). RMDs must begin after age 72 today, but the RBD actually is April 1 of the year after someone turns 72, because the first RMD can be delayed until that date. For those who turned 70½ before 2020, the RBD was April 1 of the year after he or she turned 70½.

Here's a summary of the different scenarios and rules.

1. If the IRA owner died before reaching the RBD, there are two options for the beneficiary who qualifies as a DB. The main option is for the IRA to be distributed in annual installments over the life expectancy of the DB. This would be a Stretch IRA. Or the beneficiary can elect to distribute the entire IRA by the end of the year that contained the fifth anniversary of the IRA owner’s death, known as the five-year rule. If the five-year rule is elected, the beneficiary can distribute the IRA in any pattern over the five years. No minimum annual distribution is required.

2. If the owner died before reaching the RBD, and the beneficiary doesn't qualify as a DB, the entire account has to be distributed within five years. The distributions can be made in any pattern. This rule applies most often when the beneficiary of the IRA is an estate or a trust that didn't meet certain requirements. It also is likely to apply when the IRA owner didn't name a beneficiary.

3. When the IRA owner died on or after the RBD, the IRA has to be distributed to the beneficiary at least as rapidly it was being distributed before the owner's death. The IRS regulations interpret this to mean that if there is no DB, the IRA has to be distributed over the deceased owner's remaining life expectancy as though he or she had lived. Some tax experts refer to this as the "ghost beneficiary" or "ghost life expectancy."

If the beneficiary qualifies as a DB, there are two options. The IRA can be distributed under the ghost beneficiary rule or it can be distributed over the life expectancy of the DB. When the DB is younger than the IRA owner, this last option allows the annual distributions to be much lower than they would be otherwise.

These distribution rules allowed for what is known as the Stretch IRA, because in most circumstances they allowed the IRA to be distributed, or stretched, over the life expectancy of the beneficiary. Usually, the beneficiary was younger than the IRA owner, because the beneficiary was a child or the children of the IRA owner.

In the Stretch IRA, the beneficiary could take relatively low required minimum distributions (RMDs) from the IRA each year. The rest of the IRA would remain invested and compound tax deferred. It was not unusual for the investment gains of the IRA each year to exceed the RMD or at least equal a high percentage of the RMD. In the former case, that would allow the IRA to continue to grow each year. In the latter case, the IRA would decline at a modest rate.

The Stretch IRA allowed the beneficiary to defer taxes and make maximum use of tax-deferred compounding until he or she wanted to spend or needed the money. The inherited IRA could be used to pay for the college tuition of the beneficiary's children or even for the beneficiary's own retirement.

But the SECURE Act brought an end to the Stretch IRA in most cases by creating a new class of beneficiary, the Eligible Designated Beneficiary (EDB), and imposing the 10-year distribution rule (10-year rule) on IRA beneficiaries who don't qualify as EDBs. There are still times when the old rules apply and allow a Stretch IRA or a limited Stretch IRA. So, we still must know the old rules in addition to knowing the changes made by the SECURE Act.

The SECURE Act: Categories of IRA Beneficiaries

As I mentioned, the SECURE Act didn't change or revoke the old rules. The SECURE Act eliminated the Stretch IRA for most beneficiaries by creating the 10-year distribution rule and stating that the 10-year rule applies to all beneficiaries except those who qualify as EDBs. The five-year rule still is in effect for beneficiaries who don't qualify as DBs or who elect the five-year rule. EDBs can use the rules that applied before the SECURE Act, at least to a point.

The distribution rules that apply to a beneficiary depend on the category that beneficiary falls in to. There were three categories of beneficiaries before the SECURE Act. Those categories remain in place. The SECURE Act added five subcategories to one of the main categories. These subcategories are exempt from the 10-year distribution rule.

Here are the main categories and subcategories.

Category 1: Beneficiary not eligible to be a Designated Beneficiary (DB). This is the least favorable category of beneficiary. It includes beneficiaries who are not natural persons or otherwise don't qualify as DBs. Beneficiaries in this category include estates, trusts, charitable organizations, and other entities (corporations, limited liability companies, etc.). It generally is unwise to name a beneficiary who is not eligible to be a DB, except to the extent you want a charity to inherit all or part of the IRA.

When a beneficiary is not eligible to be a DB, the five-year rule applies. The entire IRA must be distributed to the beneficiary either within five years or, if the deceased IRA owner died on or after the required beginning date for required minimum distributions, over the remaining life expectancy of the deceased IRA owner.

When an IRA has multiple beneficiaries and one of them is not eligible to be a DB, then the rules for non-DBs apply to all the IRA beneficiaries. The beneficiaries who do qualify as DBs can remedy that situation by removing the non-DB as a beneficiary. That usually is done by having the non-DB's share of the IRA distributed to it so that the only remaining beneficiaries qualify as DBs.

Category #2: Designated beneficiary who is the surviving spouse. A surviving spouse who is a beneficiary of an IRA has the most favorable status. The status also applies if the beneficiary is a conduit trust created for the benefit of the surviving spouse. The surviving spouse has two options and can change his or her mind later in life. A separate section of this report is dedicated to rules applying to and strategies available to a surviving spouse who is the IRA beneficiary.

Category #3: Non-spouse Designated Beneficiary. A DB is a natural person, or an individual. Also, a certain type of trust, known generally as a see-through or look-through trust, qualifies as a DB when the trust's beneficiaries are one or more natural persons.

Before the SECURE Act, a DB could turn the inherited IRA into a Stretch IRA by taking only the RMD each year for a period of years. When there were multiple joint beneficiaries and all were natural persons, the oldest beneficiary would be the DB and his or her life expectancy would be used to determine the annual required minimum distributions.

Under the SECURE Act, the basic rule is that a DB must fully distribute an inherited IRA under the 10-year rule. That is, the entire IRA must be distributed by the end of the year that includes the 10^{th} anniversary of the IRA owner's death.

The initial understanding of the 10-year rule by most tax professionals was that the IRA could be distributed in any pattern the beneficiary desires as long as it was fully distributed by the end of the 10th year. But proposed regulations issued by the Treasury Department in February 2022 announced a different set of rules. Under the proposed regulations, the general understanding applies when the original IRA owner passed away before reaching the date at which RMDs would have been required, also known as the RBD. The RBD is April 1 of the year after the owner turned 72. So, if the IRA owner died after reaching 72 but before April 1 of the year after turning 72, the beneficiary is treated as someone who inherited an IRA from someone who hadn't reached RBD yet. That's the case even if the original owner took an RMD before the April 1 deadline.

But when the deceased original IRA had reached the RMD starting age, annual RMDs are required of the beneficiary under the regulations. The annual RMD computed under the old rules must be taken each year from years one through nine or until the entire IRA is distributed, and the entire IRA must be distributed by the end of the 10th year.

Note that the RMD rule doesn’t apply to those who inherit Roth IRAs. Since original owners of Roth IRAs don’t have to take RMDs, there was no RBD and a beneficiary of a Roth IRA isn’t required to take RMDs during the 10-year period. Instead, the beneficiary of the Roth IRA has to distribute the Roth IRA within 10 years after inheriting it and can distribute the account in any pattern he or she wants.

For example, Rosie Profits died at age 75 owning a traditional IRA of which her son, Hi, was the sole beneficiary. Hi is 50 years old. Hi must take RMDs annually based on his life expectancy during years one through nine and must have the entire IRA distributed within the 10-year period.

Hi also inherited a Roth IRA from Rosie. He won’t have to take annual RMDs from that IRA but will have to fully distribute it by the end of the 10-year period.

If Rosie had died at age 70, Hi wouldn’t have had to take annual RMDs from either account but would have had to distribute each fully by the end of the 10-year period.

Strategies for Beneficiaries

When the original owner had not reached RBD, some advisors recommend that beneficiaries wait until near the end of the 10 years to distribute the IRA, so the tax-deferred compounding of the IRA can be maximized. Other tax planners point out that waiting until near the end of the 10 years to distribute the IRA could result in a large lump sum distribution in the tenth year, or smaller but still large distributions over two or three years. The distributions could push the beneficiary into a higher tax bracket and increase the total tax bill on the IRA. (But waiting until near the end of the 10 years would be a good strategy for an inherited Roth IRA, because the distributions would be tax free.) These advisors say a better strategy is to distribute the IRA gradually over the 10 years, trying to limit the annual distributions to amounts that won't push the beneficiary into a higher tax bracket or maximizing distributions in years when the beneficiary has more deductions or less income than usual.

There's no strategy that works best for all IRA beneficiaries. A beneficiary needs to examine his or her cash needs and tax situation each year.

Subcategories to Category #3: Eligible Designated Beneficiaries. The 10-year rule doesn't apply, however, if the DB qualifies for the new subcategory, the Eligible Designated Beneficiary (EDB). An EDB follows the pre-2020 distribution rules and has the possibility of using a Stretch IRA or a modified Stretch IRA.

Here are the five categories of EDBs:

Surviving spouse. The surviving spouse continues to have special status after the SECURE Act. The options for a surviving spouse are described in a separate section of this report.

Minor child of the IRA owner. A minor child (but not a grandchild) of the IRA owner is exempt from the 10-year rule. The proposed regulations issued in February 2022 state that the age of majority for this purpose is 21, regardless of what state law says.

After inheriting, the minor child takes RMDs under the old rules. But once the child turns 21, the status as an EDB ends and the 10-year rule kicks in.

For example, if the child is 11 years old when the IRA is inherited, the child takes annual RMDs for 10 years until turning 21. After turning 21, the child has up to 10-years to distribute the rest of the IRA. If the IRA owner died before reaching his or her RBD, no distributions are required during the 10-year period. But if the IRA owner died on or after the RBD, the child must take annual RMDs under the old rules each year until the IRA is fully distributed and the IRA must be fully distributed by the end of 10 years.

Notice that EDB status for being younger than 21 doesn't apply to anyone other than a child of the original IRA owner.

Disabled beneficiary. A disabled beneficiary is an EDB who takes required annual distributions based on his or her life expectancy. After this beneficiary passes away, the 10-year rule applies to the subsequent beneficiary, even if that beneficiary might qualify as an EDB.

If the beneficiary was under age 18 when the original IRA owner died, a disability is defined as having a "medically determinable physical or mental impairment that results in marked and severe functional limitations, and that can be expected to result in death or be of a long-continued and indefinite duration."

When the beneficiary was 18 or older at the time the original owner died, disability is determined under the definitions in tax code §72(m) which says, "an individual shall be considered to be disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration." Qualifying for Social Security disability benefits automatically qualifies one as being disabled under the tax code.

Chronically ill individual. A beneficiary who meets the tax code definition of being chronically ill can take annual required distributions based on his or her life expectancy. After this beneficiary passes away, the 10-year rule applies to the subsequent beneficiary, even if that beneficiary might qualify as an EDB.

Whether or not a beneficiary is disabled or chronically ill is determined on the date of the IRA owner's death, not at any subsequent time.

Not more than 10 years younger. A beneficiary who does not qualify as any of the other types of EDB and is not more than 10 years younger than the IRA owner may take annual RMDs over either his or her life expectancy or the deceased owner's life expectancy. After this beneficiary passes away, the 10-year rule applies to the subsequent beneficiary, even if that beneficiary might qualify as an EDB.

The proposed regs have an unusual rule for this subcategory that essentially requires an older beneficiary who inherits an IRA to monitor two different life expectancies. The rule is best explained with an example.

Suppose Max Profits dies at age 75 and his IRA beneficiary is his sister, Lois, age 80. Max died after his required beginning date. Because Lois is less than 10 years younger than Max, she isn't subject to the 10-year rule. She can take annual RMDs. Lois can continue Max's life expectancy to compute the RMDs. His life expectancy factor in the year after his death is 14.1. In each subsequent year to compute the RMD, Lois subtracts one from the previous year's life expectancy factor. On this schedule, the IRA will be depleted in Lois' 95th year.

Here's where it gets tricky. The IRS says the IRA can't be depleted any later than it would have been if the beneficiary, Lois, had used her own life expectancy factor to compute the RMDs. Because Lois was older than Max, an IRA would be depleted faster using her life expectancy than using Max's. In fact, it would be distributed in full in Lois's 91st year.

So, Lois can begin taking RMDs using Max's life expectancy factor. But she must monitor what the results would have been using her own life expectancy factor and fully distribute whatever remains in the IRA in the year it would have been depleted using her life expectancy. This is a rule that applies only to EDBs who are not more than 10 years younger than the original IRA owner and still are taking distributions in their 90s.

A couple of additional points

Remember a beneficiary must qualify as a DB before being able to qualify as an EDB, which means the beneficiary must be a natural person to be an EDB.

In the proposed regulations, the IRS said that an EDB could opt out of the ability to use the pre-2020 rules and elect to use the 10-year rule. But an IRA custodian doesn’t have to allow this election. An IRA custodian is allowed to limit an EDB to either the pre-2020 rules or the 10-year rule, if it chooses to.

After an EDB Passes Away

One of the puzzles before the SECURE Act was which rules apply to the second generation of IRA beneficiaries. The rules were clear for the beneficiary who first inherits an IRA from its original owner. But suppose the first beneficiary passes away before exhausting the IRA. A successor beneficiary would inherit the remaining IRA. The successor beneficiary might be someone the first beneficiary named as beneficiary. It might be someone the original IRA owner named to be the successor beneficiary after the original beneficiary passes away. Or the rules of the IRA custodian might establish who the successor beneficiary is.

While the distribution rules for the successor beneficiary weren’t clear before the SECURE Act and still are unclear for some successor beneficiaries, the Act specifically addresses successor beneficiaries of EDBs. When the initial beneficiary of an IRA or 401(k) qualified as an EDB, that status doesn’t pass on to any successor beneficiary. The 10-year rule applies to all successor beneficiaries of EDBs. The successor beneficiary must fully distribute the IRA within 10 years after inheriting it, even if the beneficiary could separately qualify as an EDB.

Also, when the initial beneficiary was not an EDB and was taking distributions under the 10-year rule, the successor beneficiary inherits that 10-year period. The successor beneficiary can't start a new 10-year period.

The wording of the SECURE Act is clear. So, it appears that even if the successor beneficiary separately qualifies as an EDB, that won't matter. After the initial EDB passes away, the remaining value in the account must be distributed under the 10-year rule.

In addition, the proposed regulations state that when the initial beneficiary was taking annual RMDs, the successor beneficiary must continue those RMDs under the same schedule and still fully distribute the IRA by the end of the initial 10-year period. This means a successor beneficiary must learn if the initial beneficiary was taking RMDs during the 10-year period or was required to. In other words, the successor beneficiary must know if the original IRA owner died on or before his RBD.

Trust as IRA Beneficiaries

There are good reasons for some people to name a trust as beneficiary of their IRAs. When the individuals the IRA is intended to benefit are minors, a trust might be created with those minors as its beneficiaries. Then, the trust is named as beneficiary of the IRA to ensure the IRA is managed responsibly until the beneficiaries are mature enough to handle the money. Some people want to ensure their IRAs are managed professionally or that the beneficiaries don't spend all the money soon after inheriting it. Naming a trust as the IRA beneficiary is a good way to accomplish the goals. A trust also is a good way to protect the IRA proceeds from creditors of the beneficiaries.

The SECURE Act didn't specifically change how trusts are treated when they are named beneficiaries of IRAs. But the effects of the SECURE Act change how many of these trusts and their beneficiaries will be taxed. Individuals who named trusts as beneficiaries of their IRAs before the SECURE Act should meet with an estate planner to determine the effects of the SECURE Act on their plans and to determine if changes should be made.

Remember that when an IRA beneficiary is not a natural person, the beneficiary doesn't qualify as a DB. When the beneficiary isn't a DB, the five-year rule applies. The IRA must be distributed within five years of the owner's death. The five-year rule applies to most trusts that are named IRA beneficiaries.

But there's a longstanding exception in the tax code for trusts that qualify as look-through or see-through trusts. These trusts qualify as DBs, and the status of the beneficiaries of the trust is used to determine when the IRA must be distributed to the trust. There are two variations of look-through trusts.

A conduit trust is one in which all the distributions from the IRA are made to the trust and then are distributed to the trust beneficiary almost immediately, minus any trust expenses. For purposes of determining the RMDs from the IRA, the trust beneficiary is considered the sole beneficiary of the trust and of the IRA. In other words, we look through the trust to the trust beneficiary to determine who is the IRA beneficiary and which distribution schedule applies.

These rules continue to apply after the SECURE Act. That means the status of the trust beneficiary is used to determine if the five-year rule, 10-year rule or one of the exceptions applies, when the trust is a look-through conduit trust.

An accumulation trust allows the trustee to accumulate distributions from the IRA in the trust during the lifetime of the initial beneficiary. The money can be distributed to the initial beneficiary or held to be distributed to a subsequent beneficiary after the initial beneficiary passes away. It is more difficult for an accumulation trust to qualify as a look-through trust, because all potential beneficiaries who might ever be entitled to receive a beneficiary of the trust must be identifiable individuals.

When a trust qualifies as a look-through accumulation trust after the SECURE Act, it appears that the trust can't qualify for EDB status, except possibly when the initial beneficiary is a disabled or chronically ill individual. It appears that the IRA must be distributed within 10 years when the beneficiary is an accumulation trust that qualifies as a look-through trust. If the accumulation trust doesn't qualify as a look-through trust, the IRA must be distributed to the trust within five years after the owner passes away.

You can see why the SECURE Act changed the effects of trusts as IRA beneficiaries, though it didn't change any of the rules that specifically apply to trusts. It's important that anyone who named a trust as beneficiary of an IRA, 401(k), or other retirement plan meet with an estate planner to discuss how the trust will be treated under current law. Anyone who is considering naming a trust as beneficiary of a retirement plan should carefully consider the effects after the SECURE Act and consider alternatives to the trust.

Keep in mind that trusts are separately taxed on any income that accumulates in them. Trusts reach the highest tax bracket at much lower income levels than other taxpayers do.

<u>Note</u>: This section is only an overview of the rules on trusts as IRA beneficiaries. The proposed regulations contain detailed rules and examples. Before naming a trust as an IRA beneficiary, you need to work with an estate planner who is fluent in the rules for trusts as IRA beneficiaries. Otherwise, you are likely to make a mistake that reduces your family's after-tax wealth.

The SECURE Act and Roth IRAs

The tax code states that all of the IRA and retirement plan rules apply to both traditional IRAs and Roth IRAs, unless Roth accounts specifically are exempted from a rule. The SECURE Act does not provide Roth IRAs or Roth 401(k)s an exemption from the 10-year rule and the other rules on beneficiaries. Beneficiaries who inherit Roth IRAs or Roth 401(k)s are subject to the same distribution rules as beneficiaries of traditional IRAs and 401(k)s. The Roth IRAs must be distributed within 10 years, unless one of the exceptions applies.

The distributions from the Roth accounts still are tax free to the beneficiaries. Congress simply decided that it didn't want beneficiaries of Roth accounts to be able to make unlimited use of the tax-free status of the Roth accounts. Instead, most beneficiaries have to distribute the Roth accounts within 10 years of inheriting them so that the money is in taxable accounts or is spent.

How to Count the 10 Years

As with many rules in the tax code, the shorthand expression "10-year rule" isn't fully accurate.

The proposed regulations state that the 10 years don't begin until the year after the year in which the original owner died. Specifically, they state that the account must be distributed by the end of the 10th year following the calendar year in which the original owner died.

When a beneficiary was an EDB because he or she was a minor child at the time the original owner died, the 10 years don't begin until the year after the child turns 21. So the final distribution must be made by the end of the tenth calendar year following the calendar year in which the EDB turned 21.

When Annual Distributions Aren't Required

When the five-year rule applies, the only requirement is that the entire IRA be distributed by the end of the period. There's no requirement that the beneficiary take distributions at any time before the end of the period. During the five years the beneficiary can take distributions in whatever pattern suits his or her cash flow needs and tax planning.

Some beneficiaries will wait until the end of the period and distribute the entire IRA in a lump sum. If the distribution is from a traditional IRA that has only pre-tax contributions in it, the entire distribution will be included in the beneficiary's gross income and taxed at his or her ordinary income tax rate. The distribution could be large enough to push the beneficiary into a higher tax bracket and increase the taxes paid on the IRA.

Other beneficiaries will take periodic distributions over the five years. They might take larger distributions in years when their other income is lower than usual or their deductions are higher. They might take smaller distributions in years when their incomes already are pushing them near the tops of their tax brackets.

Careful distribution planning by the beneficiary can reduce the lifetime income taxes on the inherited IRA and increase the after-tax value of the IRA.

When a Roth IRA is inherited, the distributions will be tax free to the beneficiary. The beneficiary won't have to consider taxes when timing the distributions. The main issues will be whether the beneficiary needs cash and how valuable the tax-free compounding of the Roth IRA is to the beneficiary.

When the 10-year rule applies and the original IRA owner hadn't reached the RBD, the beneficiary doesn't have to take annual RMDs during the 10 years. He or she has the same options as someone subject to the five-year rule but has a longer period over which to exercise the options.

No Rollovers

Nonspouse beneficiaries need to be aware that distributions from an inherited IRA can't be rolled over to another IRA or other qualified retirement plan, except in limited circumstances. An inherited IRA can be rolled over to an IRA with the same exact same legal name as the original inherited IRA, but it can't be combined with another IRA. For example, the IRA beneficiary might decide to transfer the inherited IRA to a different IRA custodian. This can be done tax free when the original inherited IRA (and only the original inherited IRA) is transferred to an identically-named IRA at a new custodian.

The renaming of an inherited IRA to make clear it is an inherited IRA as discussed earlier in this report isn't considered a rollover of an inherited IRA.

An inherited traditional IRA also can't be converted into a Roth IRA.

Spouses are Special

Both before and after the SECURE Act, a surviving spouse has special, favored status among beneficiaries of IRAs and other qualified retirement plans. Surviving spouses have more flexibility than other beneficiaries.

A surviving spouse who is beneficiary of an IRA has two options. Actually, there are three options but hardly anyone uses one of the options. The option rarely used is for the surviving spouse to simply continue the IRA of the deceased spouse and treat it as the surviving spouse's own. This option isn't used primarily because one of the other options is cleaner and easier over time and has the same benefits.

The best option usually is the spousal rollover. The surviving spouse may roll over the inherited IRA tax free into an IRA in the surviving spouse's name. The rollover can be to an existing IRA of the surviving spouse or to a new one set up to receive the rollover. This option also is known as the fresh start IRA. The spousal rollover can be used when the surviving spouse is the sole primary beneficiary of the IRA.

The rollover IRA is treated as an IRA of the surviving spouse and as though it always had been the surviving spouse’s IRA. Unlike other inherited IRAs, the spousal rollover IRA doesn’t carry over any characteristics or limitations from the deceased spouse’s IRA and isn’t characterized as an inherited IRA. The spousal rollover IRA is managed without any reference to the deceased spouse’s IRA. RMDs are based on the surviving spouse's age and life expectancy. The surviving spouse can select new beneficiaries. He or she can name the contingent beneficiaries the deceased spouse named for the original IRA or select different beneficiaries.

The main advantage of the spousal IRA is that distributions aren’t accelerated the way they are for an inherited IRA of a nonspouse. RMDs are based solely on the surviving spouse’s age. That means RMDs don’t start until after the surviving spouse turns 72, and the RMDs are based on the surviving spouse’s life expectancy without reference to the deceased spouse. There’s no 10-year rule.

The spousal rollover often is the best choice for an inheriting spouse, because it provides a fresh start, flexibility, and might allow the tax deferral to be stretched to the maximum possible.

Despite its advantages, the spousal rollover is not advisable in every case.

When the inheriting spouse is under age 59½ and needs or might need to take distributions from the IRA to meet living expenses before age 59½, a rollover is not a good idea. Because the rollover IRA is treated as the surviving spouse’s IRA, when the surviving spouse under age 59½ takes distributions, the 10% penalty for taking distributions before age 59½ applies. The spouse might qualify for one of the exceptions to the 10% penalty. But if he or she doesn't, each distribution faces not only income taxes but also the 10% early distribution penalty.

The surviving spouse under age 59½ should consider treating the IRA as a regular nonspouse inherited IRA instead of using a spousal rollover. The surviving spouse would be treated like other beneficiaries of inherited IRAs before the SECURE Act. The surviving spouse isn't subject to the 10-year rule but is required to take annual RMDs under the pre-SECURE Act rules.

The advantage to treating the IRA as an inherited IRA instead of doing a spousal rollover is that the 10% penalty doesn't apply to distributions from inherited IRAs, regardless of the age of the beneficiary. The distributions still will be included in gross income if they're from a traditional IRA and taxed as ordinary income, but there's no additional penalty for taking the distribution before age 59½.

Another time that treating the IRA as a regular inherited IRA might be a good idea is when the surviving spouse plans to disclaim the inheritance of the IRA. Disclaimers are a family tax planning strategy discussed later in this report.

Surviving Spouses Get to Switch

There's one more benefit available to a surviving spouse who inherits an IRA as sole primary beneficiary.

I've already described that the surviving spouse has two main options. The first option is the spousal rollover. The second option is to treat the IRA as a regular nonspouse inherited IRA.

The additional benefit for a surviving spouse is the right to change the decision at any time. That comes in handy for a surviving spouse who is younger than age 59½ when the IRA is inherited.

Suppose Max Profits passed away when he was 55. His widow, Rosie, was age 50 and the sole primary beneficiary of his IRA. Rosie can treat the IRA as a nonspouse inherited IRA. That enables her to take distributions from the IRA at any time without owing the 10% early distribution penalty.

Any time after Rosie reaches age 59½, she might elect to do a spousal rollover. Rosie rolls over the inherited IRA to an IRA in her name. From then on, she treats the IRA as her own and doesn't have to take RMDs until she turns 72, though she can take distributions at any time. Plus, there's no penalty for any distributions, because she's older than age 59½.

Another Special Rule for Surviving Spouses

The proposed regulations created a special rule that applies to some surviving spouses who initially elect not to roll over the inherited IRA to a spousal IRA, treating it as a nonspouse inherited IRA. But later the surviving spouses change their mind and switch to a spousal rollover IRA. This special rule applies when the surviving spouse was 72 or older at the time the IRA was inherited or turned 72 during the 10 years after the IRA was inherited.

The regulations create a new term and concept, the hypothetical required minimum distribution. This rule is complicated and it will be difficult for IRA custodians to monitor and the IRS to enforce. Basically, the rule concerns a surviving spouse who wasn't required to take annual RMDs while treating the IRA as a nonspouse inherited IRA. The surviving spouse only had to distribute the IRA in full within 10 years. Also, the surviving spouse was age 72 when the IRA was inherited or reached age 72 during the 10-year period. But the surviving spouse rolled over the inherited IRA to a spousal IRA before the end of the 10 years.

In this case, the surviving spouse must calculate the hypothetical RMDs that would have been required from a spousal IRA after turning 72. These are RMDs that would have had to be taken if the IRA had been rolled over to a spousal IRA after the original owner passed away. If the surviving spouse eventually decides to do a spousal rollover, the hypothetical RMDs can't be rolled over to the spousal IRA. Instead, they have to be distributed or can remain in the original nonspouse inherited IRA until required to be distributed under the 10-year rule.

Calculating RMDs for Surviving Spouses

Special rules apply when a surviving spouse chooses to treat the IRA as an inherited IRA instead of executing the spousal rollover.

A surviving spouse who treats the IRA as a regular nonspouse inherited IRA must begin annual RMDs from the IRA if the original owner had reached the RBD for RMDs. The RMDs from the inherited IRA don't have to begin until the end of the year after the year in which the deceased IRA owner would have turned 72. If the deceased owner had turned 72 before passing away, the first RMD has to be taken the year after the IRA owner's death. (For nonspouse beneficiaries who must take RMDs, the first RMD must be taken by December 31 of the year after the IRA owner passed away.)

In addition, the life expectancy of the surviving spouse that is used to calculate the RMDs is recalculated annually. Other beneficiaries, both before and after the SECURE Act, use a fixed life expectancy once they begin RMDs. The method still applies to beneficiaries who inherited IRAs before 2020 and had to begin RMDs under the old rules.

Distribution Rules for EDBs Other than Surviving Spouses and for DBs Who Inherited IRAs Before 2020

When beneficiaries prefer to use the IRA's tax deferral, they need to know the RMD rules. As we've seen, a beneficiary both before and after the SECURE Act can't just let the IRA continue to grow tax deferred for as long as desired. Distributions have to be taken.

Beneficiaries who aren’t subject to the 10-year rule have to take annual RMDs on a schedule. The schedule depends on whether or not the original owner was already taking RMDs. In either case, the beneficiary has two options. (Keep in mind that in any year the beneficiary can take out more than the RMD.) These rules apply to beneficiaries who aren’t surviving spouses.

Determine Which Category You're In

The options available to an EDB depend on whether or not the deceased owner had reached his required beginning date for RMDs. Usually it is clear whether the deceased owner had or had not reached the required beginning date, but sometimes the beneficiary needs to know the details of the rule.

Example. Max Profits was age 72 when he died in June 2021. He had not taken any distributions from his IRAs in 2021. Since he turned 72 in 2021, he was not required to take his first RMD until April 1, 2022. That means April 1, 2022, was his required beginning date. Max could have taken his RMD before then, but he wasn't required to. Therefore, though he was 72 or older at his death, he is treated as not having reached his required beginning date.

Exception. In a few cases, a required distribution need not be taken by April 1 of the year after the owner turns age 72 and so a later date is the RBD. The most likely exception applies when the owner of defined contribution employer retirement plan account, such as a 401(k) plan account, continued to work for the employer sponsoring the retirement plan. In that case, the first distribution may be delayed until April 1 of the year after the year the employee actually stops working for the employer. This exception applies only to someone who is not a five percent or greater owner of the employer and applies only to qualified retirement plans sponsored by that employer.

Even if someone avoids the RMD for a qualified employer plan by working after age 72 while not being a five percent or greater owner, required distributions still must be taken from any IRAs and any retirement plans sponsored by employers other than the current employer.

Owner Hadn't Reached Required Beginning Date

When the IRA owner died before reaching RBD and the beneficiary is an EDB, then RMDs must be taken using the beneficiary's single life expectancy in Table 1 – Single Life Expectancy in IRS Publication 590-B. The publication is available free on the IRS web site at www.irs.gov.

The first distribution must be taken by December 31 of the year following the IRA owner's death. For the first distribution, the beneficiary's age at the end of the year following the year of the owner's death is used to determine the life expectancy factor. For each following year, the life expectancy factor from the previous year is reduced by one.

When there is more than one beneficiary and they don't exercise the option to split the IRA into separate IRAs, the age of the oldest DB is used.

When the Owner Had Reach Required Beginning Date

The second case is when the original owner was older than 72 and had already reached the required beginning date for RMDs and the beneficiary is an EDB. In this case, you consider two RMD method.

The first method is to use your single life expectancy from Table 1 – Single Life Expectancy in IRS Publication 590-B or the owner's life expectancy.

The second method is the five-year rule. Under the five-year rule, the entire IRA must be distributed within five years. But if the deceased IRA owner already had reach RBD, then RMDs can be based on the remaining life expectancy of the deceased owner. Under this option, the beneficiary would take the first year's RMD using the same life expectancy table as the owner used. Each year, the beneficiary would subtract one from the owner's age the previous year and compute the RMD for that age.

The IRS says this second option is the default method if the beneficiary does not make a selection and the IRA custodian does not name the other method as the default.

Note to IRA original owners: You should leave a note to your beneficiary or estate executor showing how you computed RMDs. The main things a beneficiary needs to know are the life expectancy table and age you were using.

For Inherited Roth IRAs

When a Roth IRA is inherited, it always is treated as an IRA for which the owner had not reached the RBD. A spouse can roll over the IRA to a new Roth IRA. A non-spouse beneficiary has the choice of either the five-year distribution schedule or beginning RMDs based on his or her life expectancy using Table I in IRS Publication 590-B. Again, this assumes the beneficiary qualifies as a DB. When the beneficiary is the estate or other nonqualified individual, the IRA must be distributed within five years or under the "ghost beneficiary" rule.

Inheriting Multiple IRAs

When multiple IRAs are inherited, the computation for RMDs by heirs is different than for the original owner.

When an original owner has more than one IRA, the owner can aggregate the RMDs to determine one RMD for the year. The owner can take the total RMD for the year from the IRAs in any proportion he or she desires. The entire RMD can be taken from one IRA. It can be taken pro rata from each IRA. Or it can be taken from the IRAs in any ratio preferred by the owner. The distribution strategy can be different each year. The only requirement is that the aggregate distributions taken from all the IRAs during the year at least equal the aggregate RMD for the year.

The rule is different for heirs. The beneficiary is required to compute the RMD separately for each inherited IRA and take at least that amount from that IRA. The only exception is when all the inherited IRAs were inherited from the same original owner. Then, the RMDs can be aggregated. Otherwise, the computation and distribution of RMDs must be segregated for each IRA.

How to Calculate Required Distributions

Whether taken by the original owner or a beneficiary, calculating RMDs is fairly simple. Two numbers are needed for the basic calculation: the account balance on Dec. 31 of the year before the distribution and the appropriate life expectancy.

The life expectancy is taken from one of the tables issued by the IRS and published in Publication 590-B, available free on the IRS web site. The tables are in the appendix in the back of the publication. The regulations determine the appropriate table to use, and the heading on each table states when it is to be used. The different tables are discussed below. Once the appropriate table is located, the life expectancy factor is found using the owner's (or beneficiary's) age as of the end of the year for which the distribution will be taken.

Once the two numbers are found, the account balance is divided by the life expectancy factor. The result is the RMD for the year. In some situations, you'll use the original IRA owner's age; in others the beneficiary's age is used. In the following discussion, I talk only about the beneficiary. But the method is the same when the owner's age (or what would have been the owner's age) is used.

Which Table to Use

There are several life expectancy tables that can be used to compute the distributions. Table III - Uniform Lifetime Table will be used by most IRA owners. Table II - The Joint Life

Table is used by an account owner whose sole primary beneficiary is a spouse who is more than 10 years younger than the owner. Table I - Single Life Table is for most inherited IRAs.

The real trick when determining life expectancy occurs when computing distributions after the first RMD. In some RMD calculations, the life expectancy is determined by subtracting one from the previous year's life expectancy. This often is called the fixed-term method and applies to most inherited IRAs when the beneficiary isn't the surviving spouse. In other cases, the current age is looked up in the appropriate life expectancy table each year to determine the life expectancy to use. This often is known as the recalculation method.

The recalculation method is used for all IRA owners during their lifetimes and for their final year RMD, even if that final year RMD is taken by the beneficiary. It also is used by surviving spouses who elect to treat the IRA as an inherited IRA. For non-spouse beneficiaries of inherited IRAs, the fixed-term method is used, even when the beneficiary chooses to use the RMD schedule begun by the deceased owner. That means after the beneficiary determines life expectancy the first year, in all subsequent years the beneficiary subtracts one from the previous year's life expectancy.

What's the difference? To most people, it sounds like the two methods would have the same result. But under the fixed-term method used for beneficiaries, the IRA eventually is exhausted if the beneficiary lives to life expectancy or beyond. This differs from the recalculation method used during an owner's lifetime. Under the recalculation method, when the investment return is high enough the IRA might never be exhausted but in most cases is likely to last longer than under the fixed-term method.

The Penalty for Late Distributions

If a required distribution is not made, the penalty is 50% of the amount that was required to be distributed.

Here's an example of the pitfalls an IRA beneficiary can fall into when he or she isn't aware of the rules presented so far or doesn't take the required distributions. In this IRS ruling, an IRA beneficiary avoided a tax disaster, but she still incurred penalties that could have avoided and incurred significant professional fees and other expenses.

In the law at the time of this ruling (before the SECURE Act), when an IRA was inherited by a non-spouse and the owner had not reached required beginning age, the beneficiary had two choices. Required minimum distributions could be taken over the beneficiary's life expectancy, with the first distribution to begin by Dec. 31 of the year after the owner's death. Or the IRA could be distributed completely within five years after the owner's death. Under the second option, the distributions could be taken in any pattern as long as the IRA is empty after five years.

In the ruling, the taxpayer inherited an IRA. The owner had not reached the required beginning date. For the first two years, the beneficiary did nothing. In the third year, she took distributions equal to the total RMDs that were required for the first three years, assuming she elected to take RMDs over her life expectancy. She paid the 50% penalty for failing to take the first two years' distributions on time. She also asked the IRS to rule that she could continue taking distributions over her life expectancy and not be required to empty the IRA within five years.

In Private Letter Ruling 200811028, the IRS ruled in the beneficiary's favor. She never took any action to formally elect the five-year option, and the custodial documents for the IRA indicated that the life expectancy distribution method was the default. Failure to take distributions the first two years was not considered a de facto election of the five-year option.

Yet, this beneficiary needlessly paid a penalty of 50% of the first two years' required distributions. Her father, the IRA owner, apparently assumed she would be aware of the IRS regulations and would begin taking distributions as required. Since the daughter was in her early thirties, the difference between taking distributions over five years and over her life expectancy was substantial. The penalties, the fear of having to empty the IRA within five years, and the cost of asking for an IRS ruling could have been avoided if the owner had left written instructions to the beneficiary or arranged for her to consult with an adviser after inheriting the IRA.

The ruling also shows the importance of the IRA custodian. In this ruling it was key that the custodian said the default distribution method was the beneficiary's life expectancy. If the default was the five-year option, the IRS might very well have forced distributions over five years after she missed the first RMD.

Miscellaneous Issues

There are a few special issues regarding RMDs, whether from inherited accounts or the owner's account, that come up from time to time.

Choose What to Distribute

An IRA does not have to liquidate assets to make required distributions in cash. The IRA can distribute either cash or property. What matters is that the value of what is distributed is at least equal to the RMD for the year. Many custodians make it easy to distribute IRA assets instead of cash. The beneficiary opens a taxable account with the custodian. For example, if the custodian is a broker, the owner opens a regular, taxable brokerage account. Then, after the owner completes a form or makes an online order, the custodian transfers the appropriate quantity of units of designated investments to the taxable account. The units could be bonds, shares of stocks or mutual funds, or anything else in the account.

The trick is that the values of these assets fluctuate daily. You have to be sure enough is distributed to satisfy the RMD. The value of the assets on the date of the distribution is the value used. Prices before and after the distribution date don't matter.

There are several reasons an IRA owner or beneficiary might want to distribute property instead of cash. Distributing property could avoid sales commissions or other trading costs. Also, if the IRA owns shares of a mutual fund that is closed to new investors, distributing the shares ensures a continuing right to invest in the fund. An asset also might be hard to sell, such as a thinly-traded stock, so it is easier to distribute it or a portion of it instead of trying to sell.

Determining the value of the assets to be distributed can be a problem. An IRA might hold real estate, limited partnership interests, or other assets without ready market values. The beneficiary then is in the difficult position of potentially being wrong twice. Remember the IRA has to be valued each Dec. 31 to determine the RMD for the following year. This value could be wrong, at least in the IRS's view, making the RMD for the following year wrong. In addition, if the IRA distributes assets instead of cash, the amount distributed could be too low to satisfy the RMD. The IRS could review the transactions in a later year, re-value the assets, and impose a penalty of 50% of the amount that should have been distributed but wasn't.

One way to minimize the problem is to take proportionate distributions of all the assets in the IRA. Suppose the required distribution computation shows that 4.5% of the IRA's value must be distributed. The RMD could include 4.5% of the units of each asset in the account. That way if the IRS determines the Dec. 31 value was too low, it also would re-value the assets that were distributed. If the assets are distributed pro rata, that should minimize the penalties and extra taxes.

Timing Distributions

RMDs can be taken any time during the year in any pattern. The only rule is the total distributions from January 1 to December 31 must at least equal the RMD for the year.

Taking the RMD early in the year ensures the requirement is met and there is no risk something will happen or not happen to trigger a failure-to-distribute penalty for the year. An early distribution also is a good idea if the account holds hard-to-value assets. The closer the distribution is in time to the December 31 valuation, the less likelihood there is for a substantial penalty for failure to distribute because of a difference in values on December 31 and on the distribution date or dates. A distribution soon after the December 31 valuation also avoids incurring the cost of another valuation.

A late-in-the-year distribution is advisable if the beneficiary is having taxes withheld from the distribution and is using that withholding to avoid penalties for failure to make estimated tax payments during the year. Withheld taxes are assumed to be paid equally during the year, regardless of when they actually were withheld. An IRA beneficiary can compute the estimated tax bill for the year and have that amount withheld from the required distribution, satisfying both the minimum distribution and the prepaid tax requirements.

Knowing the Custodian's Limits

Factors in addition to the tax law might determine the options available to heirs.

An IRA sponsor can limit the choices in its IRA documents or policies. The sponsor might set one distribution method as the default. That means distributions automatically will begin under that method unless the beneficiary affirmatively selects another option by the deadline set by the sponsor. The custodian also might impose fees on some transactions or actions that are allowed under the tax law. For example, the custodian could impose a fee when joint beneficiaries of an IRA decide to split it into separate IRAs for each beneficiary.

IRA beneficiaries need to consult with the custodian before making final decisions about which actions to take and should ask about any restrictions the custodian has on actions the beneficiary is considering.

Inheriting Employer Plans

Employer qualified retirement plans, such as 401(k)s, are subject to the SECURE Act and to many of the same distribution rules as IRAs. But employers aren't required to give beneficiaries all the options allowed under the tax code. So, all the different distribution options might not be available for inherited non-IRA retirement plans. Employer plans are not required to allow beneficiaries to stretch their accounts beyond five years. In fact, they can require payouts in "a reasonable time," which for some employers is one year.

Until a 2006 tax law, beneficiaries of 401(k) and other employer plans were not able to roll over the employer accounts directly to IRAs. The employees could do rollovers when they left the employer. But when the employees left the money in the 401(k) accounts after they retired or they died before retiring, the beneficiaries had to accept whatever distribution schedule was established by the employer. No rollovers of inherited employer accounts had to be allowed. Under the 2006 law, employers are required to allow beneficiaries of employer plans to roll over the balances to IRAs. Once the account is in a properly-titled IRA, the beneficiary can begin distributions under one of the schedules allowed for inherited IRAs. The beneficiary can choose to roll over the account into either a traditional IRA or a Roth IRA, though income taxes would have to be paid when pre-tax money in a 401(k) account is rolled over to a Roth IRA.

The options available under an employer should be examined before deciding how to handle an inherited 401(k) or similar employer account. Many employer plans don't allow tax deferral of inherited accounts to be maximized. Full distributions of the inherited account often are required within one to five years, though employers are starting to change their policies to encourage people to leave money in the plan for longer periods. The distributions would be included in gross income of the beneficiary. Rolling over the account to an IRA might allow the beneficiaries more options to maximize the after-tax wealth of the IRA.

What You Need to Know About the Overlooked Deduction for Beneficiaries

There is a tricky and little-known concept in the tax code known as "income in respect of a decedent" (IRD). The IRD concept can result in a nice tax deduction for beneficiaries of an inherited IRA when the estate was subject to estate taxes, so it is worth learning about if your estate might be subject to the federal estate tax. The deduction essentially is for estate taxes paid on the value of an IRA.

Suppose someone left an estate large enough to be taxable and owned an IRA. The estate tax accountant computes that the IRA was responsible for 36.7% of the federal estate tax paid, and that the amount of the estate tax attributable to the IRA was $175,000. When the IRA beneficiary takes distributions from the IRA, he or she is entitled to a miscellaneous itemized deduction (not subject to the 2% floor) of 36.7% of each distribution. This continues until the beneficiary has deducted a total of $175,000 over the years against distributions. The deduction is allowed only as distributions are taken and ends once the deductions are equal to the total tax attributable to the IRA.

The estate tax accountant should determine the data for the deduction. Details can be found in the IRS Publication 559, Survivors, Executors, and Administrators available free on the IRS web site, www.irs.gov.

Note: The Tax Cuts and Jobs Act of 2017 suspended miscellaneous itemized deductions that are subject to the floor of 2% of adjusted gross income. The deductions are suspended for tax years 2018 through 2025. Since the IRD deduction isn’t subject to the 2% floor, it still is available. But the IRA beneficiary has to itemize expenses to take advantage of the deduction, and a small percentage of taxpayers are itemizing expenses are the 2017 tax law doubled the standard deduction amount.

Using the Power of Qualified Disclaimers

It's not always easy to determine in advance who should be named the beneficiaries of an IRA. Of course, an IRA owner wants to do what is best for individual heirs and wants to maximize the after-tax value of the estate for the loved ones. Sometimes circumstances change before the owner can change the documents. Other times, the owner makes a mistake that isn't realized until after the owner passes away. At still other times, the owner provides maximum flexibility for loved ones by naming a large number of primary and contingent beneficiaries so the family can determine the optimum beneficiaries.

Earlier in this report's discussion of the Designated Beneficiary I mentioned how the beneficiaries can take actions that will ensure the IRA's DB to be the person or people who will benefit the most from the IRA or maximize the IRA's after-tax value to the family. The tool that can be used to create the wealth-maximizing position is known as the qualified disclaimer, and it's discussed in this section. The qualified disclaimer allows financial and estate planning to occur after the death of the IRA owner. The tool can be used to fix mistakes or adjust the estate plan to new circumstances.

A disclaimer is what it sounds like. The heir or beneficiary disclaims, or renounces, an interest in either the entire estate or in a specific bequest. In the case of an IRA, if the primary beneficiary disclaims an interest, the custodian looks to the beneficiary designation to determine who takes that beneficiary's interest in the IRA. Multiple people can disclaim inheriting an asset until the asset is inherited by the person who would most benefit.

Example. Rosie Profits was named the primary beneficiary of her husband Max's IRA. Max made the designation years ago. Their children were named contingent beneficiaries. Rosie realizes that she received enough assets outside of the IRA and that because of her age the RMDs would be fairly high and cause her to take large taxable distributions each year that she doesn't need. Having the IRA inherited by the children wouldn't increase estate taxes, according to the family's estate planner. The children are in lower income tax brackets and more in need of the money than Rosie.

Rosie decides to disclaim any inheritance in the IRA. The contingent beneficiaries, her children, inherit the IRA. The IRA is out of Rosie's estate, and distributions are paid to the children instead of Rosie.

As part of the estate transfer process, the executor, estate planner, and primary IRA beneficiary should review the situation to determine who would be the optimum beneficiary of the IRA. If it is a contingent beneficiary, the beneficiaries ahead in the inheritance line should consider disclaiming any interest in the IRA. Any contingent beneficiaries who are ahead of the ideal beneficiary in the chain should be encouraged to also disclaim.

Of course, when the primary beneficiary needs the IRA to maintain a standard of living, a disclaimer is not an option. Disclaimers should be considered in situations where the primary beneficiary appears to have sufficient other assets and income to maintain his or her standard of living and there are other primary or contingent beneficiaries who could be more appropriate as the new owners of the IRA. Considerations should be the effect of a disclaimer on the estate taxes of the deceased IRA owner and the primary beneficiary, cash flow needs of the primary beneficiary, and income tax brackets of the different beneficiaries.

A disclaimer doesn't have to be a full disclaimer. A beneficiary can disclaim a portion of the IRA and allow the contingent beneficiaries to inherit the rest of it.

There is a procedure in §2518 of the tax code that defines a qualified disclaimer. If all the steps in the tax code aren't followed, the disclaimer isn't effective as far as the IRS is concerned. It's possible a disclaimer might be ineffective under the tax law but be effective under the state's law. That could create a situation in which the IRA is owned by one beneficiary but taxed to another family member.

To be effective under the tax code, a disclaimer must be an irrevocable and unqualified refusal by a person to accept an interest in a property. The disclaimer must be in writing and, in this case, must be received by the executor of the estate or custodian of the IRA no later than nine months after the date of the IRA owner's death or the day the beneficiary attains age 21, whichever is later. The disclaimer must occur before the beneficiary accepts any interest or benefits of the IRA or any other asset that is being disclaimed. The IRA must pass to a new beneficiary without any direction from the person making the disclaimer about who should inherit it.

Summarizing the Options

This report covered a lot of ground. To help beneficiaries, here's a quick summary of the main rules and the most common situations.

The SECURE Act eliminated the Stretch IRA for most beneficiaries and replaced it with the 10-year rule when the IRA owner passed away after 2019. When the IRA owner passed away before 2020, the old rules, including the Stretch IRA, still apply.

A beneficiary who qualifies as an EDB is excepted from the 10-year rule. The exception might be for life (allowing a Stretch IRA) or might be for a limited time, such as until a minor child reaches the age of majority.

EDBs are the surviving spouse or minor child of the IRA owner or a person with a disability or who is chronically ill. An EDB also is a beneficiary who is no more than 10 years younger than the deceased IRA owner.

Here are how the rules apply in the most common IRA inheritance situations.

1. The IRA owner dies after 2019. The sole primary beneficiary of the IRA is the owner’s son, who is age 32. The son qualifies as a designated beneficiary but not as an eligible designated beneficiary. The 10-year rule applies. The son has until 10 years after the owner’s death to empty the IRA.
2. The IRA owner dies after 2019. He named his adult son, age 27, as the sole primary beneficiary of the IRA. The son later is injured in an automobile accident and is permanently disabled. The son is not an EDB, because he was not disabled at the time the IRA owner passed away. The disability occurred later. The 10-year rule applies.
3. The IRA owner dies after 2019 and named as sole primary beneficiary his daughter, who is age 10. The daughter qualifies as an EDB, and the 10-year rule doesn’t apply. The daughter can begin taking annual RMDs based on her life expectancy. But when the daughter hits the age of majority (21), the 10-year rule begins. The daughter has until 10 years after reaching 21 to empty the IRA.
4. In both examples 2 and 3, if the original IRA owner died after reaching the age at which RMDs begin, the beneficiary must take annual RMDs during years one through 9 or the 10-year period or until the IRA is fully distributed. The IRA must be

fully distributed by the end of 10 years. If the original owner died before reaching the RMD beginning age, no annual RMDs would be required during the 10-year period.

5. The IRA owner dies after 2019 and names two joint primary co-beneficiaries. One beneficiary is past the age of majority and does not qualify as an EDB. The other beneficiary still is a minor. The 10-year rule applies to the adult beneficiary; his or her share of the IRA must be distributed within 10 years. The other beneficiary is an EDB until reaching the age of majority. His or her share of the IRA is subject to annual RMDs until the age of majority is reached. Then, the 10-year rule applies to the rest of that beneficiary's share of the IRA.
6. The IRA owner died in 2019 or before. The beneficiary falls under the old rules and can use a Stretch IRA, if he or she is a DB.
7. The IRA owner and the DB both died before 2020. The successor beneficiary falls under the pre-SECURE Act rules and can implement a Stretch IRA.
8. The IRA owner dies after 2019 and the IRA is inherited by an EDB. The beneficiary dies while still an EDB. The successor beneficiary does not receive EDB status and is subject to the 10-year rule.
9. The IRA owner dies after 2019 and names a beneficiary who does not qualify as a DB. The beneficiary is subject to the five-year rule.

Checklist for IRA Beneficiaries

Beneficiaries of IRAs face several important decisions. The rules underlying these decisions can be complicated. This report presents the details of the important decisions. I close the report with a checklist summarizing the choices facing beneficiaries and the actions they should consider taking.

Take a breath. There's no reason to make quick decisions. The first deadline for major actions is September of the year after the year of the original owner's passing.

Prove beneficiaries. The beneficiary designation form on file with the IRA custodian or in the custodian’s online records determines who inherits the IRA. Locate the IRA owner's forms or examine the online account and contact the IRA custodian to be sure the records match.

Don't take a check. You can't defer taxes when you personally roll over money from an inherited IRA to another IRA, even one that is correctly titled as an inherited IRA. When you take a check it will be taxed to you as a distribution, even if you deposit it in another IRA within 60 days. If you want to change IRA custodians, have the money rolled over by one custodian to another. Of course, if you take a check and spend it or deposit it in a taxable account, it is fully taxed in the year you received the check.

Consider splitting the IRA. When there are multiple primary beneficiaries, they can split the IRA tax free into separate IRAs for each of them.

Choose your distribution options. Beneficiaries who don't want to empty the IRA immediately can choose a distribution schedule. They need to analyze the choices available to them under the tax code and make a decision in time to take the first distribution by Dec. 31 of the year following the IRA owner's death.

Meet the deadlines. The Designated Beneficiary must be named with the IRA custodian by September 30 of the year following the year of the IRA owner's death. When multiple beneficiaries want to split an IRA, this must be done by Dec. 31 of the year following the year of the owner's death. When annual RMDs apply, they must begin by Dec. 31 of the year following the owner's death. When a surviving spouse wants to roll an inherited IRA into a new IRA in the surviving spouse's name, the rollover must be accomplished by Dec. 31 of the year following the owner's death.

<u>Biography</u>

Bob Carlson is editor of the monthly newsletter and website, <u>*Retirement Watch.*</u> He has served on the Board of Trustees of the Fairfax County Employees' Retirement System since 1992 and been chairman since 1995. The system has more than $4 billion in assets. Carlson was a member of the Board of Trustees of the Virginia Retirement System, which oversaw $42 billion in assets, from 2001-2005. He was appointed to the Virginia Retirement System Deferred Compensation Plans Advisory Committee in 2011. His latest book is the revised edition of "The New Rules of Retirement" (Wiley, 2016; first edition 2004). He also co-authored "Personal Finance after 50 for Dummies" (with Eric Tyson; Wiley, 2015) and wrote "Invest Like a Fox…Not Like a Hedgehog" (Wiley, 2007). He has written numerous other books and reports, including "The New Rules of Estate Planning," "Securing Your Lifetime Stream of Income," "Tax Wise Money Strategies, Retirement Tax Guide," "How to Slash Your Mutual Fund Taxes," "Bob Carlson's Estate Planning Files" and "199 Loopholes That Survived Tax Reform." He also has been interviewed by or quoted in numerous publications, including *The Wall Street Journal*, *Reader's Digest*, *Barron's*, *AARP Bulletin*, Money, *Worth*, *Kiplinger's Personal Finance*, the *Washington Post* and many others. He has appeared on national television and on a number of radio programs. He is past editor of *Tax Wise Money*. Carlson also was a Commissioner on the Fairfax County Redevelopment and Housing Authority. Carlson is an attorney and passed the CPA Exam. He received his J.D. and an M.S. (Accounting) from the University of Virginia and received his B.S. (Financial Management) from Clemson University. He also is an instrument-rated private pilot. He is listed in many editions of *Who's Who in America* and *Who's Who in the World*.