"HELPING IRA PLAN HIS IRA FROM THE IRA" TESTAMENTARY PLANNING WITH INDIVIDUAL RETIREMENT ACCOUNTS UNDER SECURE, SECURE 2.0 AND THE NEW REGULATIONS

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George D. Karibjanian is a Founding Member of Franklin Karibjanian Law & DePersis, a national boutique law firm based in Washington, D.C., with additional offices in Boca Raton, Florida and Naples, Florida. George is Board Certified by the Florida Bar in Wills, Trusts & Estates and is a Fellow in the American College of Trust and Estate Counsel.

George divides his time between the Boca Raton and Washington offices, spending the majority of his time in Boca Raton. George is admitted to practice in Florida, the District of Columbia, Maryland and Virginia.

He earned his B.B.A. in Accounting from the University of Notre Dame in 1984, his J.D. from the Villanova University School of Law in 1987, and his LL.M. in Taxation from the University of Florida in 1988. George has practiced his entire legal career in South Florida (over 37 years), practicing exclusively in the areas of estate planning and probate and trust administration, and also represents numerous clients with respect to nuptial agreements. George has participated in over 250 formal presentations, either individually or as part of a panel discussion, to national, state-wide and local groups, and has 86 publication credits in national and regional periodicals and journals. Born and raised in Vineland, New Jersey (in the heart of South Jersey), George has called Boca Raton home since 1988.

When not attending Miami Marlins home games (that AAA-talent level franchise masquerading as a Major League Baseball team), George is any one or more of reading anything and everything regarding the entertainment industry or is keeping current and/or binge-watching television programming that skews way below his supposed demographic (think any of the "Below Deck" franchises), way above his supposed demographic (think "PBS Masterpiece") and even in-between (think "Only Murders in the Building"). George is fortunate to visit the Northern California wine region annually each March (courtesy of a recurring speaking engagement at the California Tax Bar's annual Estate and Gift Tax Conference in San Francisco). George's personal mantra is that he believes that internal satisfaction and contentment are not measured by professional or personal accolades or achievements – put simply, if the Marlins' mascot, Billy the Marlin, walks by his seats at LoanDepot Park in Miami, he considers it to be a "win."

- On the topic of the Uniform Voidable Transactions Act and its potential negative effect on estate planning, George has published many articles and has lectured in cities across the nation such as Las Vegas, Nashville, New York, Phoenix, Portland (Or.), San Diego, San Francisco, and Wilmington (Del.), and presented webinars to groups in South Dakota and Alaska; he also presented this topic in October 2016 at the 42nd Annual Notre Dame Tax and Estate Planning Institute in South Bend, Indiana.
- On the topic of same-sex estate planning, George has lectured at various conferences and estate planning councils throughout the United States and has published numerous articles in publications such as Thomson Reuters' Estate Planning Journal, Steve Leimberg's LISI Estate Planning Newsletters, Trusts & Estates Magazine and the Florida Bar Journal. George has also been quoted by several estate planning publications and websites.
- George was presenter at the 59th Annual Heckerling Institute on Estate Planning in Orlando, Florida in 2025, speaking on a panel discussion titled, "A Procrastinator's Guide to Making and Reporting 2025 Gifts," and also at the 48th Annual Heckerling Institute on Estate Planning in 2014, speaking on a panel discussion titled, "Living and Working with the Uniform Principal and Income Act."
- Since 2012, George has also been a nearly annual presenter at the Notre Dame Tax and Estate Planning Institute, and has been an annual presenter at the NYU Summer Tax Institute in New York, New York since 2012.
- George's other lectures have included topics such as Preparing a Federal Estate Tax Return, Portability, Decanting, Trustee Selection and Duties, Current Developments in Estate Planning and Taxation, Representing a Client with Potential Capacity Issues, Whether a Supplemental 706 is Required, Inter-Vivos QTIP Planning, Prenuptial Agreements for the Estate Planner, the Advantages and Disadvantages of Domestic Asset Protection Trusts and Differences in the States' Version of the Uniform Trust Code. With respect to the Estate Tax Return presentation, George has presented that topic at many of the ACTEC Fellows Institutes.
- For the American Bar Association's Section of Taxation, he is a past Co-Chair of the Estate and Gift Tax Committee; was the Chairperson for the Section's 2016 Comments on the Basis Consistency Regulations, the Chairperson for a 2011-12 Section Task Force Subcommittee Advocating Changes to the Portability Provisions Added by the 2010 Tax Act; and a contributing draftsman to the Section's 2012 Comments on decanting.
- For the American Bar Association's Section of Real Property Trusts & Estates, Income and Transfer Tax Planning Group, he is a current Co-Vice Chair of the Income & Transfer Planning Group.
- For the Florida Bar's Real Property Probate & Trust Law Section, he is a past Chair of the Asset Protection Committee; the Co-Vice Chair – Probate & Trust and National Events Editor for the Section's "ActionLine" publication from 2012-2022; the Co-Chairperson of the RPPTL Ad Hoc Committee regarding potential statutory changes in light of a change in Florida's DOMA laws; a member of the Ad Hoc committee to study changes to Florida's decanting statutes (which led the 2018 legislation enacting the suggested changes); the Chairperson and primary draftsman of the Section's 2012 comments to the IRS on decanting, a member of the RPPTL Ad Hoc Committee that drafted a statutory change in response to Florida's Morey v. Everbank decision; and a member of the Section's Executive Council from 2012-2022.
- George is also a member of the Greater Boca Raton Estate Planning Council, the Washington, D.C. Estate Planning Council and the South Palm Beach County Bar Association.
- George currently serves on the Professional Advisory Committee for George Snow Memorial Scholarship Foundation. Previously, George served on the Professional Advisory Committee for the Boca Raton Museum of Art from 2011 to 2019 and served on the Board of Directors for the Palm Beach County Wealth & Estate Planning Seminar from January 2015 until its suspension in January 2019. George also served as President and a member of the Board of Directors of the Notre Dame Alumni Club of Boca Raton (1996-1997), a member of the St. Jude's Church (Boca Raton) Financial Education Council (1994-1996), and Vice President and a member of the Board of Directors of the Boca Raton Girls Fastpitch Softball Association (2004-2008).
- In November 2025, George earned his Level 3 Certification in Wine from the Wine & Spirits Education Trust ("WSET") based in London, United Kingdom.

Topics That Won't Be Covered – The Matt Damon "Cut for Time" Segment

- **Because time does not permit this, like Jimmy Kimmel does to Matt Damon each night, some items must be cut from the presentation for time constraints.**
- **These include:**
  - **Rules pre-SECURE (Outline pp. 16-21)**
  - **Roth IRA's (Outline pp. 36-39)**
  - **Trusts as Beneficiaries – Potential Modifications and Reformations (Outline pp. 52-57)**
  - **Disclaimers (Outline p. 59)**

Introduction - The Importance of Estate Planning for IRAs

- **Introductory Example:**
  - **Mac is a 55 year old retired bar owner/karate expert living in Delray Beach, Florida.**
  - **Mac's assets are as follows:**
    - **Residence - $2,000,000**
    - **Stocks, Bonds and other Tradeable Securities - $1,000,000**
    - **IRA - $15,000,000**
    - **Life Insurance - $2,000,000**

Introduction - The Importance of Estate Planning for IRAs

- Mac is single and has three children:
  - Charlie, age 24, married and divorced twice, currently single and unemployed.
  - Dee, age 22, single, recent graduate from the University of Hawaii and working with a public accounting firm, and living with Bill, a self-described "on the cusp" musician who is unemployed.
  - Dennis, age 20, single, unemployed, just returned from rehab for addition to prescription pain relievers, with current credit card debt in excess of $60,000.
- Mac's health is deteriorating, and his attorney, Frank, plans a revocable trust with dynastic trusts, but ignores the IRA.
- What is the result?

Individual Retirement Accounts – The Basics

- §408(a) - as a trust created or organized in the United States for the exclusive benefit of an individual or her/his beneficiaries.
- Governing instrument must meet 6 requirements:
  - Contributions in Cash
  - Trustee must be a bank
  - No investments in life insurance
  - Balance is non-forfeitable
  - No commingling of funds
  - Distributions controlled under 401(a)(9)

Individual Retirement Accounts – The Basics

- **The Power of Compounding**
  - **Example – Liz and her $100,000**
    - **Liz, a 35 year old, has $100,000 to invest. Assume a modest 5% average rate of return, with annual taxes on the rate of return at 25%.**
    - **By the time Liz attains age 74, the Tax Deferred Account is 74.3385% larger than the Taxable Account ($970,350.75/$556,589.91).**

Individual Retirement Accounts – The Basics

Chart 1 – Non-Tax Deferred

Growth Rate		6%				
Tax Rate		25%				
	Taxable Account			Tax Deferred Account		
Age	Interest & Growth	Taxes	Balance	Interest & Growth	Taxes	Balance
35			$100,000.00			$100,000.00
36	$6,000.00	($1,500.00)	$104,500.00	$6,000.00	$0.00	$106,000.00
37	$6,270.00	($1,567.50)	$109,202.50	$6,360.00	$0.00	$112,360.00
38	$6,552.15	($1,638.04)	$114,116.61	$6,741.60	$0.00	$119,101.60
39	$6,847.00	($1,711.75)	$119,251.86	$7,146.10	$0.00	$126,247.70
40	$7,155.11	($1,788.78)	$124,618.19	$7,574.86	$0.00	$133,822.56
****	****	****	****	****	****	****
74	$31,957.32	($7,989.33)	$556,589.91	$54,925.51	$0.00	$970,350.75
Total Deferred Income & Growth				$870,350.75		
Less: Taxes Imposed at Age 74						($217,587.69)
Total After-Tax Balance of Tax Deferred Account						$752,763.06
Less: Balance at Age 74 of Taxable Account						($556,589.91)
Increase/(Decrease) in Account at Age 74						$196,173.15

- If unrealized income taxes are taken into consideration, such taxes are $217,587.69 for net after-tax balance of $752,763.06, which is $196,173.15 greater than the taxable account.

Individual Retirement Accounts – The Basics

Chart 2 –Tax Deferred, assuming 8% Growth Rate and 30% Tax Rate

- **By the time that Liz attains age 74, the additional growth, without the reduction for the increased taxes, produces a Tax Deferred Account that is 140.2335% larger than the Taxable Account ($2,011,529.77/$837,322.59).**
- **If unrealized income taxes are taken into consideration, such taxes are $479,045.15 for net after-tax balance of $1,117,772.03, which is $406,720.53 greater than the taxable account.**

Individual Retirement Accounts – The Basics

Chart 2 –Tax Deferred, assuming 8% Growth Rate and 30% Tax Rate

Growth Rate		8%				
Tax Rate		30%				
	Taxable Account			Tax Deferred Account		
Age	Interest & Growth	Taxes	Balance	Interest & Growth	Taxes	Balance
35			$100,000.00			$100,000.00
36	$8,000.00	($2,400.00)	$105,600.00	$8,000.00	$0.00	$108,000.00
37	$8,448.00	($2,534.40)	$111,513.60	$8,640.00	$0.00	$116,640.00
38	$8,921.09	($2,676.33)	$117,758.36	$9,331.20	$0.00	$125,971.20
39	$9,420.67	($2,826.20)	$124,352.83	$10,077.70	$0.00	$136,048.90
40	$9,948.23	($2,984.47)	$131,316.59	$10,883.91	$0.00	$146,932.81
****	****	****	****	****	****	****
74	$63,433.53	($19,030.06)	$837,322.59	$149,002.21	$0.00	$2,011,529.77
Total Deferred Income & Growth				$1,911,529.77		
Less: Taxes Imposed at Age 74						($573,458.93)
Total After-Tax Balance of Tax Deferred Account						$1,438,070.84
Less: Balance at Age 74 of Taxable Account						($837,322.59)
Increase/(Decrease) in Account at Age 74						$600,748.24

Individual Retirement Accounts – The Basics

- **Asset Protection – Participant's IRA**
  - **Exempt under Fla. Stat. §222.21(2)(a)1.**

    … any money or other assets payable to an owner, a Participant, or a beneficiary from, or any interest of any owner, Participant, or beneficiary in, a fund or account is exempt from all claims of creditors of the owner, beneficiary, or Participant if the fund or account is:

    1. Maintained in accordance [and] preapproved by the Internal Revenue Service as exempt from taxation under s. 401(a), … s. 408 …"

Individual Retirement Accounts – The Basics

- **Asset Protection – Participant's IRA - Compare with Some Other States**
  - **California**
    - **California Code of Civil Procedure §703.140(b)(10)(E), which provides, as a general rule, that IRA's are exempt, but only to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.**
    - **Courts will determine by formula what is "reasonably necessary," and any amounts in excess of the "reasonably necessary" amount are available for creditors.**

Individual Retirement Accounts – The Basics

- Asset Protection – Participant's IRA - Compare with Some Other States
  - California (Cont.)
    - Courts have wide discretion in determining what is "reasonably necessary" but generally rely on what is referred to as the "Moffat" factors from In re Moffat, 119 B.R. 201 (9th Cir. BAP 1990):
      - The debtor's present and anticipated living expenses and income;
      - The age and health of the debtor;
      - The debtor's ability to work and make a living, including his/her training, skills and education;
      - The debtor's ability to save for retirement; and
      - Any special needs of the debtor and his/her dependents.

Individual Retirement Accounts – The Basics

- **Asset Protection – Participant's IRA**
  - **Hawaii**
    - **Hawaii Revised Statute §65-124 exempts any retirement plan or arrangement described in section 401(a), 401(k), 403(a), 403(b), 408, 408A, 409 (as in effect prior to January 1, 1984), 414(d), or 414(e) of the Internal Revenue Code of 1986 from attachment, execution, seizure, the operation of bankruptcy or insolvency laws under title 11 United States Code section 522(b), or under any legal process.**

Individual Retirement Accounts – The Basics

- **Asset Protection – Participant's IRA**
  - **Virginia**
    - **Exempt under Va. Code §34-34**
  - **Oregon**
    - **Exempt under Ore. Rev. Stat. §18.358(2), but if support order is in effect, 75% is exempt.**
  - **South Dakota**
    - **S.D. Cod. Laws §43-45-16 – exempt up to $1,000,000, but the court has discretion to lower this if it finds the exempt amount to be "excessive"**

Individual Retirement Accounts – The Basics

- **Asset Protection – Inherited IRA**
  - **Generally, such accounts are NOT exempt - without a "specific reference," Inherited IRA's may be subject to creditor's claims pursuant to the United States Supreme Court's opinion in Clark v. Rameker, 134 S. Ct. 2242 (2014).**
  - **Florida**
    - **In Fla. Stat. §222.21(2)(c), Florida provides an example of what might be considered to be a "specific Reference":**
      - **"(c) Any money or other assets or any interest in an IRA or other certain qualified retirement account that is exempt from claims of creditors of the owner, beneficiary, or Participant does not cease to be exempt after the owner's death …"**

Individual Retirement Accounts – The Basics

- **Asset Protection – Inherited IRA – Other States**
  - **Hawaii**
    - **No specific exemption for Inherited IRA's; reference to the federal bankruptcy statute appears to preclude creditor protection**
  - **California**
    - **No specific exception for Inherited IRA's; further, it is unlikely that one would not be adopted unless and until IRA's become fully exempt.**

Individual Retirement Accounts – The Basics

- **Asset Protection – Inherited IRA – Other States**
  - **Oregon**
    - **It is believed that such accounts are exempt as per the ACTEC Chart, but the statute is silent on this issue.**
  - **Virginia**
    - **None – Va. Code §34-34.B ties exemption into Federal Bankruptcy exemptions, which Clark v. Rameker said does not exist.**
  - **South Dakota**
    - **No statutory exclusion and no case law on point.**

Individual Retirement Accounts – The Basics

- **Contribution Limits (§219(b)(1)(A))**
  - **Shall not exceed the lesser of:**
    - **The deductible amount ($5,000, adjusted for inflation), or**
    - **An amount equal to the compensation includible in the individual's gross income for such taxable year**
    - **Catch-up contributions for individuals 50 or older - deductible amount is increased by the applicable amount, which is $1,000, which is also adjusted for inflation (in 2026, this became $1,100).**
    - **2026 - $7,500/$8,600.**

Individual Retirement Accounts – The Basics

- **Non-Deductible Contributions (§219(g))**
  - **IRAs are supplemental retirement plans; therefore, they are secondary to other employer sponsored plans.**
  - **If the employee is an "active Participant" in an employer retirement plan, the amount of the deduction for an IRA contribution is reduced, ultimately to $0.**
  - **Maximum amount of any non-deductible contributions is limited to the otherwise-deductible amount (i.e., $5,000 adjusted for inflation).**

Individual Retirement Accounts – The Basics

- Non-Deductible Contributions (§219(g))
  - Phase Outs
    - Covered by an Employer Plan:
      - Single – over $91,000
      - Married Filing Jointly – over $149,000
    - Not Covered by an Employer Plan:
      - Single – No phase out
      - Married Filing Jointly

        If spouse is covered by a plan, over $252,000

Individual Retirement Accounts – The Basics

- **When are Contributions Prohibited?**
  - **Before the SECURE Act, contributions ceased once the owner went into "pay status."**
  - **Under the SECURE Act, there is no age limitation for contributions, so an owner can continue to make contributions even if the owner is in "pay status."**

Individual Retirement Accounts – The Basics

- **Rollovers (§408(d)(3))**
  - **Distributions are not taxable if they are rolled over in one of two ways:**
    - **The entire amount received is paid into an IRA or individual retirement annuity (other than an endowment contract) within 60 days; or**
    - **The entire amount received is paid into an eligible retirement plan within 60 days.**

Individual Retirement Accounts – The Basics

- **Distributions**
  - **§408(e)(1) - the IRA plan itself is generally exempt from taxation; distributions from a plan, however, are included in the recipient's gross income under §408(d)(1).**
  - **Not subject to the §1411 "net investment income" 3.8% tax. (§1411(c)(5))**
  - **Exception - if the account contains non-deducted contributions, each distribution contains a proportionate amount of basis and the balance of the account (§72(e))**

Individual Retirement Accounts – The Basics

- **Post-Death Distributions**
  - **§691 - "income in respect of a decedent"**
  - **Example - Lucille and her $2,000,000 IRA**
    - **Lucille dies with three aspects to her estate: she has fully utilized her applicable exclusion amount, the only other asset is an IRA (which was funded with all deductible contributions) of $2,000,000, and her estate has no available estate tax deductions.**
    - **As a result, Lucille's IRA is subject to 40% federal estate taxes of $800,000, leaving $1,200,000 available for the beneficiary or beneficiaries ($2,000,000 - $800,000).**
    - **The Designated Beneficiary of the IRA is Lucille's son, Buster, where all distributions to Buster are fully taxable and Buster is in the top federal income tax bracket of 37%.**

Individual Retirement Accounts – The Basics

- **Post-Death Distributions**
  - **Example - Lucille and her $2,000,000 IRA (cont.)**
    - **This means that, from the $1,200,000 that Buster would receive, after the payment of Lucille's estate taxes, 37% would be paid in federal income taxes (or $444,000) so that the net portion of the original IRA that would be received by Buster is $756,000, or only 37.8% of the IRA balance at Lucille's date of death.**
    - **Even though income taxes were be due on distributions from the IRA, there is no §2053/Schedule K debt deduction for anticipated income taxes on IRA's on the federal estate tax return because the tax liability is an unknown – as the liability is not recognized until the future, there could be other offsets so that the ultimate tax liability could be reduced to $0.**

Individual Retirement Accounts – The Basics

- **Post-Death Distributions**
  - **Some relief - the §691(c) Deduction**
    - **Very complicated calculation, but provides a deduction based on the following:**

IRD multiplied by,

$$\frac{\text{Total Estate Taxes} * (\text{Value of Includible IRD})}{(\text{Gross Estate})}$$

Individual Retirement Accounts – The Basics

- **Qualified Charitable Distribution (§408(d)(8))**
  - **RMD is excluded from the Participant's gross income, akin to a full deduction, as opposed to a deduction subject to an AGI limitation.**
  - **The amount of a qualified charitable distribution is limited to $100,000 per year, adjusted for inflation (for 2026, this amount is $111,000).**
  - **Under SECURE Act and SECURE 2.0, the distribution is reduced in any year where the Participant is in pay status and makes a contribution to the IRA.**
  - **Further, QCD's cannot be made to a private foundation or to a donor advised fund (see (§408(d)(8)(B)(i)).**

Required Minimum Distribution Rules

- "Applicable Age" for RMDs:
  - Pre-SECURE, this was a fixed age of 70 1/2. (A) Prior to SECURE, this was age 70 ½; Now, the Required Beginning Date ("RBD") is based on the Participant's birthdate:
    - Born between 7/1/49 and 12/31/50 – Applicable Age is 72
    - Born from 1951 through 1958 – Applicable Age is 73
    - Born After 1959 – Applicable Age is 75
  - Statutory Error – what if you were born in 1959? This is a gap in the statute; the Final Regs try to correct this by stating that those born in 1959 are in the "73" group.

Required Minimum Distribution Rules

- **The IRA must be withdrawn at a minimum annual rate, which is determined under the IRS Uniform Life Table**
  - **First Distribution Year - beneficiary is not required to withdraw the first RMD until April 1 of the following year**
  - **Each Successive Year – withdraw by Dec. 31**
- **Multiple Accounts – withdraw from any account**
- **Unpaid RMD**
  - **Goes to beneficiary**
  - **Can a beneficiary receive the RMD but disclaim the balance? Yes – See Rev. Rul. 2005-36 and Disclaimers and IRA's – In Certain Circumstances, Beneficiaries Can Have Their Cake and Eat It Too, LISI Employee Benefits & Retirement Planning Newsletter #583 (October 4, 2011)**

Death of Account Participant

- 3 Categories of Beneficiaries
  - Designated Beneficiaries (same as pre-SECURE Act)
  - Non-Designated Beneficiaries (same as pre-SECURE Act)
  - Eligible Designated Beneficiaries – special subset who have different distributions rules
- Designated Beneficiaries
  - Only individuals may be Designated Beneficiaries
  - Estates may NOT be Designated Beneficiaries
  - Trusts - Although a Trust is not an individual, it is possible to "look through" the trust and treat the individual trust beneficiaries as they were the Designated Beneficiaries

Death of Account Participant

- **Eligible Designated Beneficiaries:**
  - **The surviving spouse of the Participant;**
  - **A person who is not more than 10 years younger than the Participant;**
  - **A minor child of the Participant;**
  - **A disabled individual; or**
  - **A chronically ill individual.**
- **SECURE provides for different scenarios involving payouts which are dependent on whether the Participant/Employee dies before or after her/his RBD**

Death of Account Participant Before RBD - Spouse

- **Whereas other Eligible Designated Beneficiaries whose payouts are determined on a life expectancy use the Single Life Tables, a spouse is not required to start RMD's until the year in which the Participant would have reached her/his RBD, which means that the spouse is treated as the Participant**
- **Since the spouse is treated as the Participant, payouts are based on the Uniform Life Table and not the Single Life Table (ULT = joint lives of Participant and someone 10 years younger)**
- **Why is this important? Consider a Participant who is 75 years old. The life expectancy is:**
  - **Single Life Table, 75 Year Old: 14.8 Years**
  - **Uniform Life Table, 75 Year Old: 24.6 Years**
- **The longer the life expectancy, the lower annual payouts**

Death of Account Participant Before RBD - Spouse

- **Rollover**
  - **The rollover election may be made at any time after the Participant's date of death, including after the surviving spouse's own RBD.**
- **Non-Rollover**
  - **The Final Regs and Prop. Regs want to provide the spouse with better options so that the spouse would not have to rollover the IRS into her/his individual name**
- **As discussed later…in a jurisdiction where Inherited IRA's are protected, this is a good thing; not so much if not protected as creditors could reach**

Death of Account Participant Before RBD - Spouse

- "Election" to Use of Uniform Life Table and Payout Rules
  - Pursuant to §401(a)(9)(B)(iv), the spouse can elect to take payments until the year in which the Participant would have reached her/his Applicable Age
  - Payments are based on the Uniform Lifetime Table.
  - Note that this is "elective"; the Prop. Regs, in Prop. Reg. §1.401(a)(9)-5(g)(3)(ii)(A), treat the spouse as always having made the election; in other words, this is automatic.
  - To be clear - this is NOT a rollover account as to the spouse – this provision makes the spouse the beneficiary of an Inherited IRA.

Death of Account Participant Before RBD - Spouse

- **If certain requirements are met, §402(c)(1) allows a Participant in a qualified retirement plan to roll over certain plan distributions to another qualified retirement plan.**
- **Under Treas. Reg. §1.408-8, A-5 provides that the surviving spouse of an individual may elect to treat the spouse's entire interest as a beneficiary of an individual's IRA (or the remaining part of such interest if distribution thereof has commenced to the spouse) as the spouse's own IRA.**
- **The effect of the election is that subsequent RMDs are determined under §401(a)(9) with the surviving spouse as the Participant, i.e., the measuring life.**

Death of Account Participant Before RBD - Spouse

- **The rollover election may be made at any time after the Participant's date of death, including after the surviving spouse's own RBD.**
- **The spouse must be the sole beneficiary of the IRA and have an unlimited right to withdraw amounts from the IRA**

Death of Account Participant Before RBD - Spouse

- **Making the Rollover Election**
  - **There is no statute or regulation that gives instructions as to how to properly effect a rollover.**
  - **Affirmative Election – the surviving spouse redesignates the account as an account in the name of the surviving spouse rather than in the name of another beneficiary.**
  - **Contribution – if the spouse makes a contribution to the IRA, then, as contributions are not allowed to Inherited IRAs, this an indication that the IRA has become the spouse's IRA.**
  - **Failure to Take RMD – if the spouse is not in pay status and fails to take an RMD after the Participant's death, then, under Treas. Reg. §1.408-8, A-5, this indicates that the spouse has deemed this to be her/his own IRA.**

Death of Account Participant Before RBD - Spouse

- No Rollover – Treat IRA as an "Inherited IRA"
- The spouse can make an "election" to have the IRA treated as an inherited IRA so that she/he can gain the use of Uniform Life Table and Payout Rules
  - Why do this? All Inherited IRA account rules are in place, i.e., no surtax on pre-59 1/2 distributions, etc.
  - Further, the spouse still has the option of rollover over the account.
  - Can the spouse opt out of this election? Prop. Regs are silent!
  - While not explained in the Prop. Regs, this appears in all instances to be a benefit to the surviving spouse, so Natalie suggests that this is a non-issue because the election would always be favorable.

Death of Account Participant Before RBD - Spouse

- **Still, why would the spouse NOT rollover the account into her/his name to have payments based on her/his life expectancy?**
  - **Consider when the Spouse is much older than Participant – great deal for the spouse because the spouse would hit the Applicable Age before the Participant would have reached such age and can still defer payments until such time as the Participant would have attained the Applicable Age.**
  - **If the spouse is much younger than the Participant, then the rollover would make more sense.**
  - **If the spouse is the same age, from a tax standpoint, the effect is neutral.**

Death of Account Participant Before RBD - Spouse

- Another situation when the election would be a "bad deal" – Roth Accounts
  - If the inherited/election approach is adopted, distributions start at the Participant's Applicable Age, whereas with the Roth, a rollover means no mandatory distributions during the spouse's lifetime.
- What about Asset Protection?
  - Consider if the spouse has creditor issues and lives in a jurisdiction where inherited IRAs are not protected from creditors.

Death of Account Participant Before RBD - Spouse

- **Final Thoughts**
  - **Note that the 10-Year Rule can still apply – the plan itself can impose the 10-Year Rule on some categories of EDB's.**
  - **This approach, however, is doubtful because plan administrators probably have not included these options into their plans, but beware that the could be in the future!**
  - **Who would do this? Possibly plans from a big employer could do this to avoid the implication of having various beneficiaries using the life expectancy rules.**

Death of Account Participant Before RBD – Non-Spouses

- For death BEFORE the RBD:
  - Regular DB's
    - "10-Year Rule" – payments are similar to the 5-Year Rule, but the time period is 10 Years
  - Non-DB's
    - 5-Year Rule still applies just as with pre-SECURE

Death of Account Participant Before RBD – Non-Spouses

- **5 Year Rule:**
  - **If a beneficiary is NOT a DB, all benefits from the IRA must be distributed no later than December 31 of the year that contains the 5th anniversary of the Participant's date of death.**
  - **Under the 5-Year Rule, the only distribution requirement is that the account must be distributed by December 31 of the year that contains the 5th anniversary of the Participant's date of death (the "5 Year Deadline").**

Death of Account Participant Before RBD – Non-Spouses

- **5 Year Rule:**
  - **"5 Years" is a misnomer – it could be, for all intents and purposes, 6 years. Consider if death occurs on 1/1/19. Since death occurs in 2019, the 5th year after the year of death is 2025, and the distribution is not required until the 5 Year Deadline. Thus, under this scenario, with a death on January 1, 2019, the IRA is not required to be distributed until December 31, 2025, or 6 years later.**
- **Under SECURE, distributions pre-RBD are subject to the 10-Year Rule, which is the same as the 5-Year Rule in terms of distribution requirements**

Death of Account Participant Before RBD – Non-Spouses

- **Eligible Designated Beneficiaries**
  - **Generally, an EDB will receive distributions from the Inherited IRA by using the EDB's life expectancy**
- **10-Years Younger Beneficiary**
  - **10 Years Younger is the floor – also includes beneficiaries who are older than the Participant**
  - **Anomaly – under SECURE, the "lesser of" rule, if the EDB is older than the Participant, the EDB would be better off treated as a Regular DB because the payout would be longer; this was corrected in the Final Regs in § 1.401(a)(9)-5(d)(ii) to provide that the life expectancy is the GREATER of and not lesser of**

Death of Account Participant Before RBD – Non-Spouses

- **Minor Child**
  - **When SECURE was passed, the definition of "minor" was unclear – under Federal law, this could have meant someone who was under 26**
  - **Proposed Regs clarify that "minor" means 21; Final Regs expanded this definition to include stepchildren and certain foster care children**
  - **Minor Child can use her/his life expectancy until attains majority, after which the 10-Year Rule kicks in**

Death of Account Participant Before RBD – Non-Spouses

- **Disabled and Chronically Ill**
  - **Under the Final Regs, both have specific definitions**
  - **Both must require documentation – chronically ill documentation includes a certification from a licensed health care practitioner**
  - **Status is determined as of the Participant's death, meaning a later disability or chronic illness would not allow the beneficiary to switch to the life expectancy method**

Death of Account Participant After RBD - Introduction

- **Initially, when SECURE was passed, it was believed by most practitioners that the payout rules were identical regardless of whether the Participant died before or after the RBD, i.e., could wait until the 10th year to take distributions**
- **Under the Final Regs, however, this is not the case! Rules are wildly different depending on the Participant's status at the time of her/his death**

Death of Account Participant After RBD - Introduction

- **Natalie points out that the rules for RMDs if the Participant dies before the RBD are contained in a separately titled regulation, namely, Treas. Reg. §1.401(a)(9)-3; however, there is no regulation titled "Death After the Required Beginning Date."**
- **The rules for RMDs after the RBD are found in Treas. Reg. §1.401(a)(9)-5(d)(1) under the heading "Required minimum distributions from defined contribution plans."**

Death of Account Participant After RBD - Spouse

- **Under SECURE 2.0, the Final Regs and the Proposed Regs, a spouse now has 2 options with respect to RMDs:**
  - **Life Expectancy Payout**
  - **Treatment as the Participant**
- **IMPORTANT OBSERVATION: Under either option, consider the ramifications of not having a rollover, i.e., creditor protection.**

Death of Account Participant After RBD - Spouse

- **Option 1 - Life Expectancy Payout**
  - **As an EDB, under §401(a)(9)(B)(i) and Treas. Reg. §1.401(a)(9)-5(d)(1), the spouse can opt to take RMD's based on a life expectancy payout, which is under the "longer of" rule, which means that the RMDs are calculated based on the longer of the spouse's life expectancy or the Participant's life expectancy (i.e., the "ghost life expectancy")**
  - **Calculations under this approach use the Single Life Table.**
  - **If the Participant was younger than the spouse, the ghost life expectancy would be the longer of the two, so the spouse's recalculated life expectancy will be longer, but when the spouse passes the end of the Participant's life expectancy, the calculation switches to the spouse's life expectancy.**

Death of Account Participant After RBD - Spouse

- **Option 1 - Life Expectancy Payout**
  - **What if the Participant was more than 10 years younger than the spouse? The Prop. Regs offer the spouse a "longer of" rule so long as the ghost life expectancy is longer than that of the spouse under the Uniform Life Table**

Death of Account Participant After RBD - Spouse

- **Option 2 - Spouse is Treated as the Participant**
  - **The spouse can elect (a REAL election, not like the pre-RBD election described above) to have payouts determined as if she/he were the Participant.**
  - **CAUTION – the plan could make this the "default" option so the only way to adopt the Life Expectancy Payout would be to elect OUT of this option.**
  - **Because the spouse is the Participant, the spouse would use the Uniform Life Table to determine the RMDs.**
  - **The intent of this approach is that even though this is an Inherited IRA, the spouse would get the same payout treatment as if she/he had rolled over the IRA.**

Death of Account Participant After RBD – Non-Spouses

- **Death Under the SECURE Act – After Pay Status**
  - **10-Years Younger EDB**
    - **"Longer of" rule with EDB's life expectancy compared to the Participant's ghost life expectancy.**
  - **Minor Child EDB**
    - **Provisions for a Minor Child EDB are the same regardless of whether the Participant was in pay status.**
  - **Disabled or Chronically Ill EDB**
    - **Provisions are the same regardless of whether the Participant was in pay status.**

Death of Account Participant After RBD – Non-Spouses

- **Death Under the SECURE Act – After Pay Status**
  - **What about Separate Shares? Final Regs clarify that if an account is separated into separate shares before September 30 of the year following the year of the Participant's death, each separate share is treated as a separate Inherited IRA for payout purposes**
  - **This means that if one such separate share would be payable to an EDB, the EDB rules definitely apply to such share.**

Death of Account Participant After RBD – No DB

- **What happens if the death occurs after Pay Status but there is no Designated Beneficiary?**
- **Under Treas. Reg. §1.401(a)(9)-5, Q&A 5(a)(2) and (c)(3), the payout period is determined by the Participant's "ghost" life expectancy, calculated using the Single Life Table (and not the Uniform Life Table)**
- **Annual payouts are determined by the Participant's age as of the birthday in the year of death, reduced by 1 for each elapsed year since the year of death**
- **Example: Participant dies in 2026 at age 74, where all beneficiaries are not designated beneficiaries. Beginning in 2027, payouts are based on a life expectancy of 15.6 years, reduced by 1 for each subsequent year**
- **Payout is for MORE than 10 years!!!**

Death of Designated Beneficiary – Participant Dies Before RBD

- **Regular DB**
  - **10-Year Deadline still applies regardless of how many successive beneficiaries inherit the Inherited IRA**
- **10-Years Younger or Chronically Ill / Disabled EDB**
  - **10-Year Rule applies as of the EDB's death, with the payments based on the now-deceased EDB's life expectancy**
- **Minor Child EDB**
  - **Payments continue by earlier of 10th year after the Minor Child EDB's death or the Minor Child EDB's 21st birthday**

Death of Designated Beneficiary – Participant Dies After RBD

- Regular DB's
  - 10-Year Rule sort of still applies in that the Inherited IRA is still required to be fully distributed by the 10-Year Deadline, but the Regular DB is required to take RMD's in each year based on the "longer of" rule of her/his life expectancy and the ghost life expectancy
- 10-Years Younger or Chronically Ill / Disabled EDB
  - Inherited IRA must be distributed by first to occur of 10-Year Deadline as to EDB, end of EDB's life expectancy or end of Participant's ghost life expectancy
- Minor Child EDB
  - Rules are the same as if pre-Pay Status

Charitable Beneficiaries

- **Outright distributions to charity avoid income taxation on the distribution amount because the charity does not pay income tax, so its receipt of income in respect of a decedent is irrelevant.**
- **Distribution has to be either as a Separate Account or must be distributed to the charity no later than September 30 of the year following the year of death in order to prevent the IRA from suffering from a failure of the Designated Beneficiary rule.**

Charitable Beneficiaries

- **For individuals who are charitably inclined and want to benefit family members and descendants, the use of the IRA to pass to charity reduces the amount of IRD items that would pass to the family, thus allowing for a greater overall amount to pass to family members as the non-IRD items will not be subject to income tax on the distribution to family members.**

Trusts as Beneficiaries - Generally

- **Pre-SECURE Act, trusts were named as beneficiaries, especially "accumulation trusts," despite little guidance on whether this was permissible**
- **Finally, in the 2022 Proposed Regs and the 2024 Final Regs, trusts are referenced and are permitted to be beneficiaries (Treas. Reg. §1.401(a)(9)-4(f))**
- **Two types of trusts – "Conduit," where all RMD's are paid to the beneficiary, and "Accumulation," where the RMD's are paid into the trust and are not required to be distributed to the beneficiary.**
- **Regs now define an Accumulation Trust**

Trusts as Beneficiaries – Generally

- Conduit Trust
  - RMD paid to beneficiary
  - Popular because all other beneficiaries are disregarded
  - Simple to create
- Accumulation Trust
  - RMD paid to Trustee, but the Trustee is not required to pay it to the beneficiary.
  - Regular trust accounting rules apply

Trusts as Beneficiaries - Generally

- **Other Notes about Trusts as Beneficiaries:**
  - **Beneficiary Age Now Irrelevant**
  - **Pre-SECURE, the objective was always to attempt to use the longest life expectancy for payments to a trust; attention had to be given to remainder beneficiaries as well as permissible takers under a power of appointment.**
  - **For this reason, many practitioners preferred a Conduit Trust because only the income beneficiary was considered for RMD purposes; all others were disregarded.**

Trusts as Beneficiaries – Beneficiary Designations

- **Beneficiary Designations**
  - **As said earlier, biggest welcome change in the Final Regs – thanks to Treas. Reg. §1.401(a)(9)-4(f), you can now name the revocable trust to be the beneficiary!!!!!**
  - **Two requirements for this:**
    - **Account must be divided immediately without discretion; however, this allows for the period of trust administration, i.e., cannot say "divide one year after the Participant's death"**
    - **Further, the non-pro-rata distribution provisions in the trust must not apply meaning that there can be no discretion on the division**

Trusts as Beneficiaries – Beneficiary Designations

- **Beneficiary Designations**
  - **How to draft this provision? See Page 49 of Outline:**

1.3 Outside Assets

If my spouse predeceases me, with respect to any insurance policies, retirement accounts, or other assets passing by beneficiary designation (collectively, the "Other Assets") as a result of my death are made payable to the Trustee hereof and without having been allocated into separate trusts for my descendants, I provide as follows:

(a) Generally. All such Other Assets shall not be considered part of the assets comprising or passing under this Agreement from which any debts, expenses of administration, funeral expenses, bequests under my Will, and taxes, may be paid, but rather shall be disposed of as provided in Section 1.8.

(b) Retirement Plans. With respect to the application of Section 1.3(a) as to any Retirement Plan assets, I provide that, notwithstanding any other provision of this Agreement to the contrary, the assets under any such Retirement Plan shall be divided in accordance with Section 1.8 as soon as possible after my death, and that any such division in accordance with said Section 1.8 be on a pro-rata basis without the exercise of any discretion on the part of the Trustee."

Trusts as Beneficiaries – Beneficiary Designations

- **Beneficiary Designations**
  - **More conservative approach – divide the shares in the Beneficiary Designation through use of a "Rider"**
    - **Problematic because often, the institutions will deny the Rider, which leads to many discussions about the legality of the Rider; in short, institutions don't want to be bothered by the Rider**
    - **See Exhibits D and E for model Riders**

Trusts as Beneficiaries – Beneficiary Designations

- **Beneficiary Designations**
  - **Key Rider Language (See Outline pp. 50-53 and Exhibits D and E)**
  - **Division into Shares:**

> **"II. Contingent Beneficiaries if My Spouse Predeceases Me**
>
> **If my spouse predeceases me, my interest in the Plan shall be divided into as many equal shares as may be necessary to provide one for each of my children, [CHILD 1] (d/o/b [Child 1's DOB]; SSN: [Child 1's SSN]), [CHILD 2] (d/o/b [Child 2's DOB]; SSN: [Child 2's SSN]) and [CHILD 3] (d/o/b [Child 3's DOB]; SSN: [Child 3's SSN]), who survives me, and one for each of them who predeceases me but who leaves one or more descendants who survive me (each share for a child of mine who predeceases me is to be divided into further shares, per stirpes, among his/her descendants), and each share shall be disposed of as provided in Section III of this Designation."**

Trusts as Beneficiaries – Beneficiary Designations

- **Beneficiary Designations**
  - **Key Rider Language (See Outline pp. 50-53 and Exhibits D and E)**
  - **Disposition of Shares:**

III. Disposition of Shares

Any share set aside for a particular descendant of mine shall be added to the separate "Descendants Trust" of which said descendant is the "Primary Beneficiary" under Section ___ of the [CLIENT] REVOCABLE TRUST dated [Trust Date], between me, as Settlor, and me, as Trustee, as amended or restated from time to time (the "Revocable Trust").

The Custodian shall pay the proceeds of such share, (a) as directed by the Trustee in accordance with the provisions of §401(a)(9) of the Code, or, (b) if the beneficiary under such trust is an "Eligible Designated Beneficiary" (as defined in §401(a)(9) of the Code), in installments equal to the minimum amount that is required to be distributed pursuant to the provisions for Eligible Designated Beneficiaries under §401(a)(9) of the Code. In addition, the Trustee of said trust shall have the right at any time to withdraw any part or all of such share.

Trusts as Beneficiaries – Beneficiary Designations

- **Beneficiary Designations**
  - **Key Rider Language (See Outline pp. 50-53 and Exhibits D and E)**
  - **Disposition of Shares (cont.):**

Notwithstanding the foregoing paragraph of this Section III, if, notwithstanding the Descendants Trust Provisions of Section ___ of the Revocable Trust, a separate Descendants Trust is not created for a particular descendant of mine, then the share set aside for said descendant shall instead be held in trust pursuant to the Descendants Trust Provisions of the Revocable Trust, which are hereby incorporated by reference, and under which the Trustee designated to act as the Trustee of said Descendants Trust shall act as the Trustee of said trust."

Trusts as Beneficiaries – See-Through Trusts

- **Regs emphasize "See-Through Trusts" vs. "Non-See-Through Trusts"**
  - **See-Through: Trust Beneficiaries treated as DB's**
  - **Non-See-Through: Treated as if no DB, meaning:**
    - **If the Participant was not in pay status: the 5 Year Rule applies.**
    - **If the Participant was in pay status: payments continue based on the Participant's life expectancy.**

Trusts as Beneficiaries – See-Through Trusts

- See-Through Trusts
  - Trust Beneficiaries treated as DB's
  - 5 Requirements
    - Valid under state law.
    - Irrevocable or become irrevocable upon Participant's death (PLR 200537044 – trust protector's ability to amend administrative provisions is permissible)
    - Trust must identify beneficiaries – general provisions OK (i.e., "issue") so long as it is possible to identify the class member with the shortest life expectancy
    - Certain documentation must be provided to the plan administrator.
    - All trust beneficiaries must be individuals.

Trusts as Beneficiaries – Identifying the Beneficiaries

- **Three-Tiers of Beneficiaries**
  - **First Tier – beneficiaries who are entitled to receive distributions upon the Participant's death (think "first line qualified beneficiaries" in Uniform Trust Code jurisdictions).**
  - **Second Tier – those who could receive amounts if not distributed to the First-Tier beneficiaries; in other words, the presumptive remainder beneficiaries or the "third line qualified beneficiaries" in UTC jurisdictions.**
    - **Never counted in Conduit Trusts**
    - **Always counted in Accumulation Trusts (with one exception)**

Trusts as Beneficiaries – Identifying the Beneficiaries

- **Three-Tiers of Beneficiaries**
  - **Third Tier – those who could receive amounts if not distributed to Second Tier beneficiaries; in other words, the remote contingent beneficiaries of a trust.**
  - **Third Tier beneficiaries are always disregarded unless they are also Second Tier beneficiaries.**
- **Under the Tier-System, contingent remainder beneficiaries are disregarded (unless they are also Second-Tier), as are takers under powers of appointment.**

Trusts as Beneficiaries – Identifying the Beneficiaries

- **Power of Appointments**
  - **If the power is exercised in favor of identifiable beneficiaries on or before 9/30 of the year after the year of death, the takers become the beneficiaries in lieu of the second-tier beneficiaries**
  - **If the power is not exercised by 9/30 of the year after the year of death, takers under the power are disregarded and the second-tier beneficiaries are counted.**

Trusts as Beneficiaries – Identifying the Beneficiaries

- **Accumulation Trust Special Rule – outright distribution at age 31 causes the Tier-System to be disregarded – NOTE…in an asset protection environment, who would provide for this?**
- **Multiple Beneficiary Trusts are specifically authorized**
  - **As for the Conduit Trust, the Proposed Regs specially authorize trusts for several beneficiaries**
  - **If all of the trust's beneficiaries are EDB's, much like the old rules with all DB's, the oldest EDB's life expectancy will be used in determining the payouts.**
  - **What if one is an EDB? Special rules for EDB's are disregarded, unless EDB is Minor Child EDB**
  - **Under Final Regs, if minor children are beneficiaries of a pot trust, it's the 10-Year Rule applies when the YOUNGEST attains age 21, not the OLDEST (change from the former Proposed Regs)**

Trusts as Beneficiaries – Trusts and the Surviving Spouse

- **If there is a surviving spouse, should a trust be named?**
  - **If the trust is a Conduit Trust, probably OK because the spouse would be deemed to be the beneficiary and thus EDB status, i.e., life expectancy, could apply**
  - **If the trust is an Accumulation Trust, sacrificing the life expectancy for the 10-Year Rule may not be the best planning**
  - **Also a factor is to consider the asset protection nature – if property is held in a trust, it will definitively have spendthrift protection, whereas if the spouse lives in a jurisdiction where inherited IRA's are not creditor protected, the only possible protection solution is for the spouse to rollover the IRA**

Trusts as Beneficiaries – Conduit vs. Accumulation

- **Conduit vs. Accumulation Trusts – Which to Use?**
  - **Conduit Trusts**
    - **Advantages**
      - **Limited creditor protection, especially if beneficiary lives in a state where Inherited IRA's are not protected.**
      - **Because all Second and Third Tier beneficiaries are disregarded, the trust is unlimited in what it can provide.**
      - **With younger beneficiaries, i.e., skip persons, RMD's and the eventual final distribution can be taxed at the younger beneficiary's tax rate.**

Trusts as Beneficiaries – Conduit vs. Accumulation

- **Conduit vs. Accumulation Trusts – Which to Use?**
  - **Conduit Trusts**
    - **Disadvantages**
      - **Mandatory payments to the beneficiary goes against discretionary trust approach.**
      - **Not the best for dynastic trusts – for DB's who are not EDB's, the account will be exhausted relatively quickly under the 10-Year Rule which also wastes exemption**
      - **Mandatory RMD payments to the beneficiaries are not ideal if the beneficiary is a special needs individual and if the beneficiary needs to qualify for governmental benefits.**

Trusts as Beneficiaries – Conduit vs. Accumulation

- **Conduit vs. Accumulation Trusts – Which to Use?**
  - **Accumulation Trusts**
    - **Advantages**
      - **Ideal for dynastic trusts – the RMD is paid into the same trust that owns the IRA, so even under the 10-Year Rule, the Inherited IRA remains protected and the Trustee can control distributions to the beneficiary.**
      - **No waste of any applicable exemption.**

Trusts as Beneficiaries – Conduit vs. Accumulation

- Conduit vs. Accumulation Trusts – Which to Use?
  - Accumulation Trusts
    - Disadvantages
      - Second Tier beneficiary can potentially knock out the trust from being a See-Through Trust.
      - Income taxes
        - May be paid by the trust at a higher rate than if the RMD were paid directly to the beneficiary, especially under SECURE when the balance or all of the account (depending on the Participant's status at the time of her/his death) is payable at the end of the 10-Year Rule.

Trusts as Beneficiaries – Conduit vs. Accumulation

- **Conduit vs. Accumulation Trusts – Which to Use?**
  - **Accumulation Trusts**
    - **Disadvantages**
      - **Income Taxes (cont.)**
        - **BUT…what if the owner converts to a Roth before payouts begin? If the account is a Roth, then the income tax disadvantage is negated.**

Trusts as Beneficiaries – Char. Rem. Trusts

- **Provides for family members and charity**
- **Even though a non-individual is named as the beneficiary, there is no income tax recognition on the distribution to the CRT; the tax is paid subsequently on the annuity or unitrust payments to the beneficiary.**
- **Problems:**
  - **Regardless of the investment structure, the class of income under the tier system remains based on the original classification.**
  - **Greatly diminished effect of the §691(c) deduction**

Trusts as Beneficiaries – Drafting Considerations

- **Drafting Considerations for the Trust**
  - **Allow Trust Advisor to change trust provisions to allow for Conduit Trust to become an Accumulation Trust and vice-versa**
  - **Limit debts and expenses payable from IRA to before September 30 of year after the year of death**
  - **Prevent Non-DB's from being beneficiaries of the trust**
- **Based on the Final Regs, a Trust (and not the sub-trusts) should only be named as the beneficiary if the trust provisions divide the account immediately and does not allow for discretion; if uncertain, stick with dividing into shares in the Beneficiary Designation**
- **In the Trust, if you don't want to have a Non-DB Beneficiary, don't forget to exclude non-DB's as potential beneficiaries!!!**

Guidelines for the Beneficiary Designation

- 4 Steps to Consider
  - Step #1 – Discuss the Plan with the Client about Including the IRA
  - Step #2 - Obtain Pertinent Account Information
  - Step #3 – Think Through the Plan – if confident that the Revocable Trust satisfies the requirements from the Final Regs, then name the Revocable Trust as the beneficiary
  - Step #4 – Prepare the Designation; if not confident that the Revocable Trust satisfies the Regulations, divide into shares in a Rider to the Beneficiary Designation and then Negotiate with Custodian