NEW IRS RULING VALIDATES THE "IRA INHERITANCE TRUST™"

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Why Name a Stand Alone Trust as an IRA Beneficiary?

In the world of estate planning, one of the more complex technical areas is the intersection of individual retirement accounts (IRAs)[1] and trust planning.

Aside from ensuring that a beneficiary will stretch out distributions over his/her life expectancy, naming a trust as beneficiary of an IRA provides no income tax advantage over naming a spouse or child as outright beneficiary. In fact, in the context of a trust for one's spouse, there may even be some disadvantages.[2] However, it is also true that trusts may provide significant benefits in the form of estate tax reduction. More importantly, trusts will also provide benefits in the form of enhanced creditor protection for beneficiaries in high-risk professions. In most states, trusts offer the added benefit of better protecting assets in the event that a beneficiary is divorced or faces tort liability.

Notwithstanding the above, if it were not for the income tax implications, there would be no benefit to creating a separate stand-alone IRA trust. The IRA could simply be paid to a revocable trust with appropriate funding clauses for unified credit and GST planning.

Since 1987, the Internal Revenue Service has issued two sets of proposed regulations and one set of Final Regulations under Code § 401(a)(9). For practitioners without extensive experience with IRA planning, it is very difficult to draft a trust that qualifies as a designated beneficiary trust under the Final Regulations so that required minimum distributions can be stretched out over the longest possible period.

In summary, here is what is at stake: if a trust is a designated beneficiary trust, the life expectancy of the oldest trust beneficiary can be used to determine required minimum distributions.[3] In the alternative, if a trust is not a designated beneficiary trust, then distributions must occur under either the five-year rule[4] or the life expectancy of the deceased IRA owner.[5]

To put this in perspective, one must examine this from a quantitative perspective. The chart below shows the results under the five-year rule and the life expectancy rule. Under this chart, assume that the deceased IRA owner died at age 68 and the beneficiary is 38 years old. Assuming a beginning IRA balance of $500,000, a growth rate of 8% and a 40% combined federal and state income tax rate on the IRA

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[1] See, generally, IRC § 401and 408.
[2] For example, by naming a spouse as beneficiary of an IRA, the spouse is able to perform a spousal rollover upon the death of the IRA owner. Treas. Reg. § 1.408-8, Q&A 5.
[3] Treas. Reg. § 1.401(a)(9)-5, Q&A 7(a)(1).
[4] Treas. Reg. § 1.401(a)(9)-3, Q&A 4(a)(2).
[5] Treas. Reg. § 1.401(a)(9)-3, Q&A 4(a)(1).

distributions, this chart illustrates the assets that are available to the beneficiary (both inside and outside of the IRA) under the different distribution scenarios.

Year	Immediate Distribution[6]	Five-Year Distribution (Non-Qualified Beneficiary)[7]	Distribution to Beneficiary (Qualified Beneficiary)[8]
5	$409,100	$434,268	$706,866
10	$557,876	$592,197	$983,022
15	$760,757	$807,559	$1,355,782
20	$1,037,418	$1,101,241	$1,852,480
25	$1,414,692	$1,501,725	$2,503,916
30	$1,929,168	$2,047,852	$3,341,253
35	$2,630,742	$2,792,587	$4,389,123
40	$3,587,454	$3,808,157	$5,652,011

The above chart demonstrates the benefits of deferring income tax within the IRA by stretching out distributions over the beneficiary's life expectancy. In other words, the quicker the IRA is liquidated, the less economic benefit passes to the beneficiaries. In the context of a larger IRA, the difference in the wealth transfer between a non-qualified beneficiary and a qualified beneficiary is staggering.

Under the 401(a)(9) regulations, there are four basic requirements for a trust to qualify as a designated beneficiary trust[9]:

(1) The trust is a valid trust under state law, or would be but for the fact that there is no corpus.[10]

(2) The trust is irrevocable or will, by its terms, become irrevocable upon the death of the employee.[11]

[6] In the "Immediate Distribution" scenario it is assumed that the IRA withdrawal would take place in the first year of the analysis. Upon distribution, it is further assumed that the net after-tax proceeds would be reinvested in a mixed portfolio earning a 6.4% after-tax rate of return (i.e. 8% pre-tax growth rate less a 20% combined federal and state capital gains tax rate).
[7] In the "Five-Year Distribution" scenario it is assumed that the withdrawal from the IRA would not take place until the fifth year. Upon distribution in year five, it is assumed that the net after-tax proceeds would be reinvested in a mixed portfolio earning a 6.4% after-tax rate of return (i.e. 8% pre-tax growth rate less a 20% combined federal and state capital gains tax rate).
[8] In the "Distribution to Beneficiary" scenario it is assumed that the required minimum IRA withdrawals will be taken out over the beneficiary's life expectancy. Upon distribution each year, it is assumed that the net after-tax proceeds would be reinvested in a mixed portfolio earning a 6.4% after-tax rate of return (i.e. 8% pre-tax growth rate less a 20% combined federal and state capital gains tax rate).
[9] Treas. Reg. § 1.401(a)(9)-4, Q&A 5.
[10] Treas. Reg. § 1.401(a)(9)-4, Q&A 5(b)(1).
[11] Treas. Reg. § 1.401(a)(9)-4, Q&A 5(b)(2).

(3) The beneficiaries of the trust who are beneficiaries with respect to the trust's interest in the employee's benefit are identifiable from the trust instrument within the meaning of Treas. Reg. § 1.401(a)(9)-4, Q&A 1.[12]

(4) The documentation described in Treas. Reg. § 1.401(a)(9)-4, Q&A 6[13] has been provided to the plan administrator (generally by October 31 of the year following the year of death).[14]

Requirements 1, 2, and 4 are fairly self-explanatory in most situations. However, it is Rule 3 that causes concern for both practitioners and the Service alike. In order for the beneficiaries to be identifiable, a series of special steps must be taken in the trust document to assure designated beneficiary status. In the big picture, an IRA trust can either be drafted as a "conduit" trust or an "accumulation" trust.

Conduit vs. Accumulation Trust

A conduit trust requires that as each IRA distribution is received by the trust, the trust merely distributes the same to the current beneficiary.[15] Therefore, the trust does not "trap" any of the IRA distributions inside of the trust. Where a conduit trust exists, one need not consider remainder beneficiaries or potential appointees.[16]

> ***Example:*** John leaves his IRA to a Trust for the benefit of his wife, Jane. Upon Jane's death, the IRA held within the Trust will be distributed to John's children. The Trust provides that while Jane is alive, all amounts distributed from the IRA must be paid directly to Jane upon receipt by the trustee. In this case, Jane is the sole designated beneficiary of the IRA for purposes of determining the designated beneficiary. No amounts distributed from the IRA to the Trust are accumulated in the Trust during Jane's lifetime for the benefit of any other beneficiary. Therefore, the children are mere potential successors to Jane's interest in the IRA.

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[12] Treas. Reg. § 1.401(a)(9)-4, Q&A 5(b)(3).

[13] In order to satisfy the documentation requirement for RMDs after the death of the employee, by October 31 of the calendar year immediately following the calendar year of the employee's death, the trustee of the trust must either (1) Provide the plan administrator with a final list of all beneficiaries of the trust (including contingent and remaindermen beneficiaries with a description of the conditions on their entitlement) as of September 30 of the year following the year of the employee's death and certify that, to the best of the trustee's knowledge, this list is correct and complete and that the requirements of Treas. Reg. § 1.401(a)(9)-4, Q&A5(b)(1), (2), and (3) are satisfied; and agree to provide a copy of the trust instrument to the plan administrator upon demand; or (2) Provide the plan administrator with a copy of the actual trust document for the trust that is named as a beneficiary of the employee under the plan as of the employee's date of death.

[14] Treas. Reg. § 1.401(a)(9)-4, Q&A 5(b)(4).

[15] For example, assume an IRA distribution of $1,000 is taken, then that $1,000 must be distributed to the trust beneficiary as soon as possible. Likewise, if $4,500 is taken from the IRA the next year, then that $4,500 must be distributed to the trust beneficiary as soon as possible.

[16] This result is confirmed in Example 2 of Treas. Reg. § 1.401(a)(9)-5, A-7(c)(3). See also PLRs 199931033 (August 9, 1999) and 200106046 (February 12, 2001).

An accumulation trust, on the other hand, allows for accumulation of IRA distributions within the trust. The key analysis with this type of trust is to determine which beneficiaries (or potential beneficiaries) must be taken into account. When dealing with an accumulation trust, all *potential* beneficiaries (contingent or otherwise) must be taken into account in determining whether a designated beneficiary exists, unless such beneficiary is a "mere potential successor".[17] This requires consideration of all contingent beneficiaries, limited and general powers of appointment, and the failure of beneficiaries' clause.[18] If a beneficiary is considered a mere potential successor, they do not have to be considered in determining the beneficiary with the oldest life expectancy. The inquiry as to which beneficiaries are countable ends when the potential no longer exists for trust accumulation.

> ***Example:*** John leaves his IRA to his Trust. The Trust is for the benefit of John's wife, Jane, during her lifetime. Upon Jane's death, the Trust is paid outright to John's children. If all of John's children are deceased, the Trust is payable to a charitable organization. At John's death, all of John's children are living. Because no amounts will be accumulated in the Trust at Jane's death (because the Trust pays outright to children), the charitable organization is a mere potential successor to the children's interest in the IRA.

Because the future is so hard to predict, a strong case can be created to utilize the accumulation trust rather than the conduit trust. As stated above, in the conduit trust a distribution from the trust is mandated each year, whereas in the accumulation trust, distributions can be retained by the trustee. Below is a list of several situations where an accumulation trust may be more appropriate than a conduit trust.

- Consider a special needs trust for a handicapped child
- A trust for a child in a high risk profession
- A trust for a child with known substance-abuse challenges
- A trust for a child with a troubled marriage
- A generation skipping trust for an extremely successful child

Although one can debate what percentage of clients fall into which particular category, it suffices to say that only some clients are perfect candidates for a conduit trust.

Issues When Drafting an Accumulation Trust

Accordingly, one must analyze the details of drafting an accumulation trust.

As noted above, one must look at all potential beneficiaries in determining if an accumulation trust qualifies as a designated beneficiary. In many cases, a share may be

[17] Treas. Reg. § 1.401(a)(9)-5, A-7(c).
[18] See PLR 200228025 (July 12, 2002).

retained in trust for multiple generations. In this case, the Service will inquire as to future and remote beneficiaries. If the trust is to be held for children, grandchildren and great-grandchildren, a problem exists if no grandchildren or great-grandchildren are yet born. In this regard, there may be a failure of beneficiaries. In this case, we must take into consideration the possibility that the failure of beneficiaries' clause may become operable. The failure of beneficiaries' clause will often operate by the laws of intestacy of an elected jurisdiction. Often, this will include the potential for older beneficiaries than the initial trust beneficiary, but also include the potential for escheating to the state. Thus, if this is the case, no designated beneficiary would exist.

PLR 200228025 illustrates this need to look at contingent beneficiaries. In this ruling, a trust was named the beneficiary of an IRA. There were two young children named initial beneficiaries of the trust. Under the terms of the trust, if one of the children died before age 30, the child's share went to the child's issue. If the child had no living issue, the trust went to the other child. If both children died before age 30 without issue, the trust passed to a much older great-uncle. The Service ruled that the great uncle’s life expectancy must be used to determine post-death required minimum distributions.

Where the trust includes a power of appointment and is not structured as a conduit trust, consideration must also be given to the effect of the power of appointment. Often, the trust will be considered under the “life expectancy” test whereby all potential beneficiaries, including appointees under a power of appointment must be taken into consideration. Such appointment may take the form of a general or limited power of appointment.

A general power of appointment is a power which is exercisable in favor of the decedent, his estate, his creditors, or the creditors of his estate.[19] In most cases, giving a beneficiary a general power of appointment over a trust that holds IRA assets will cause the trust to not qualify as a designated beneficiary because (1) non-individuals are potential beneficiaries and (2) it would not be possible to identify the oldest possible beneficiary by September 30 of the year following the year of the IRA owner’s death. However, if the general power of appointment is crafted to only be exercisable in favor of (a) such beneficiary during the trust term or (b) individual creditors younger than the oldest trust beneficiary, the general power of appointment will be narrow enough not to cause disqualification.[20]

A limited power of appointment can generally be defined as the power to appoint property to anyone other than the owner, his estate, his creditors, or the creditors of his estate.[21] This power may be drafted on a much narrower basis, such as the ability to appoint property to “issue.” In order to satisfy the “beneficiaries identifiable” test, it must be possible to determine the potential appointees in order to ascertain the shortest life expectancy. If, for example, a power to appoint to “issue” is used and adoptees of a child are to be treated as issue, does this satisfy the “beneficiaries identifiable” rule?

[19] See IRC § 2041(b).
[20] See PLRs 200235038-200235041.
[21] See IRC § 2041(b).

Although highly improbable, it would be possible (assuming the trust instrument permitted) for a child to adopt an individual older than the oldest trust beneficiary. A solution appears to be to limit the permissible class of beneficiaries to those who are younger than the current beneficiary.

Where accumulation trusts are used, the language of the regulations can be interpreted to end the inquiry at the point where the entire interest (IRA and Trust corpus) will be distributed free of trust at the death of another beneficiary (or the IRA owner). Perhaps, it can be argued that any beneficiary who may take after that point is a mere potential successor beneficiary. However, there is absolutely no guidance beyond the regulations.

As all of these points illustrate, it is almost always advisable to use a stand-alone trust when naming a trust as beneficiary of an IRA. There are numerous traps that are often unavoidable or missed when using a trust that was drafted for other purposes, such as a Living Trust, even when attempts are made to create a "firewall" between a particular beneficiary's sub-trust and the rest of the Living Trust's terms. Trying to intertwine typical Living Trust provisions with designated beneficiary trust provisions can lead to unintended results. For example, limiting potential contingent beneficiaries may be needed in an IRA Inheritance Trust™, but may not be desired in the client's Living Trust. By trying to combine both trusts, a client could unnecessarily lose flexibility in their Living Trust by trying to comply with the 401(a)(9) Regulations. In addition, as discussed below, the beneficiary designation form must be properly executed to allow separate share treatment. An IRA Inheritance Trust™ is better suited to work in conjunction with such customized designation form. To ensure that the client's estate planning goals are met without the loss of tax deferral, practitioners are advised to utilize a trust specifically designed to be a beneficiary of an IRA.

New Private Letter Ruling

A new Private Letter Ruling, PLR 200537044, has just been released that provides significant guidance on how to structure a trust and beneficiary designation form when naming a trust as beneficiary of a retirement account. The Trust in which this Ruling was based was developed, drafted and first implemented by Philip J. Kavesh, JD, LLM (Taxation), a nationally recognized California attorney who has been certified by the California State Bar as a Specialist in Estate Planning, Trust and Probate Law. Not only does this ruling clarify the separate share issue discussed above, but also shows a way for practitioners to build flexibility into their IRA trusts.

Conduit Trust Qualifies as an IRA Beneficiary and Permits Stretchout

The first issue clarified by this ruling is what constitutes a conduit trust. As explained above, by structuring a trust as a conduit trust, one need not take into account contingent trust beneficiaries in determining the beneficiary with the shortest life expectancy.[22] This provides great latitude when drafting contingent beneficiary provisions. When a trust is structured as a conduit trust, for instance, a lifetime or testamentary general power of appointment could be given to the primary beneficiary without jeopardizing the designated beneficiary status of the trust.

Again, a conduit trust is a trust that does not allow any retirement asset distributions to accumulate within the trust.[23] Under this recently issued PLR, however, trust expenses could first be deducted from such retirement asset withdrawals before they were distributed to the trust beneficiary.

There was a concern that the IRS might view the payment of trust expenses as preventing the trust from being considered a conduit trust. However, the taxpayer argued, and the IRS agreed, that even with the deduction for payment of trust expenses, no amounts distributed from the retirement asset would be accumulated in the Trust during the beneficiary's lifetime and would not be kept in trust for the benefit of any future beneficiaries. This arrangement falls squarely within the parameters illustrated in Example 2 of Treas. Reg. § 1.401(a)(9)-5, Q&A 7(c)(3).

It appears that the key concern of the IRS when allowing contingent beneficiaries to be disregarded is that amounts not be allowed to remain in a trust resulting in future beneficiaries having the potential to take a portion of the retirement asset.[24] By allowing trusts that distribute out all IRA amounts to disregard contingent beneficiaries, the IRS has given taxpayers a method to ensure that only primary beneficiaries are taken into account in determining the beneficiary with the shortest life expectancy. Allowing a trust to deduct expenses before a distribution is made to a beneficiary does not contradict the IRS' reasoning on this matter. All amounts received from the retirement asset would be distributed out of the trust to the beneficiary or to pay expenses.

Because the payment of trust expenses is necessary, this ruling alleviates the concern that such payments risk the conduit status of trusts when retirement assets are the only funds available to pay these expenses.

Toggle Switch May Convert a Conduit Trust to an Accumulation Trust

One of the things that can be lost when trying to meet the strict guidelines of naming a trust as beneficiary of an IRA is flexibility. This PLR approves a method that provides post-mortem flexibility while still allowing for designated beneficiary status.

Under this PLR, the Trust language requires that all payments from retirement accounts be paid outright to the trust beneficiaries (i.e. the sub-trusts are structured as conduit trusts). However, the Trust provides for an independent third party to act as a “Trust Protector”. The Trust Protector is given the power to transform any “conduit” sub-trust

[22] See, Treas. Reg. § 1.401(a)(9)-5, Q&A 7.
[23] See, for example, Treas. Reg. § 1.401(a)(9)-5, Q&A 7(c)(3), Example 2.
[24] See, for example, Treas. Reg. § 1.401(a)(9)-5, Q&A 7(c)(3), Example 1.

into an accumulation trust. If the Trust Protector makes such an election, he must also eliminate contingent beneficiaries who would jeopardize the designated beneficiary status of the Trust. This power is analogous to a trustee's ability to disclaim benefits by September 30 of the year following the year of the IRA owner's death.[25] Conversely, the Trust Protector is given the power to convert an accumulation trust to a conduit trust. This can be useful if it is determined that the beneficiary is able to handle distributions and no longer needs the protection afforded by an accumulation trust.

The above power gives the Trust Protector the flexibility to modify the distribution provisions of the trust that best fit the circumstances for each beneficiary at the Trustor's death. This can be a very powerful tool considering that it is impossible when drafting a trust to know what circumstances will be in existence and, thus, which distribution structure will be most appropriate for each beneficiary at the Trustor's death.

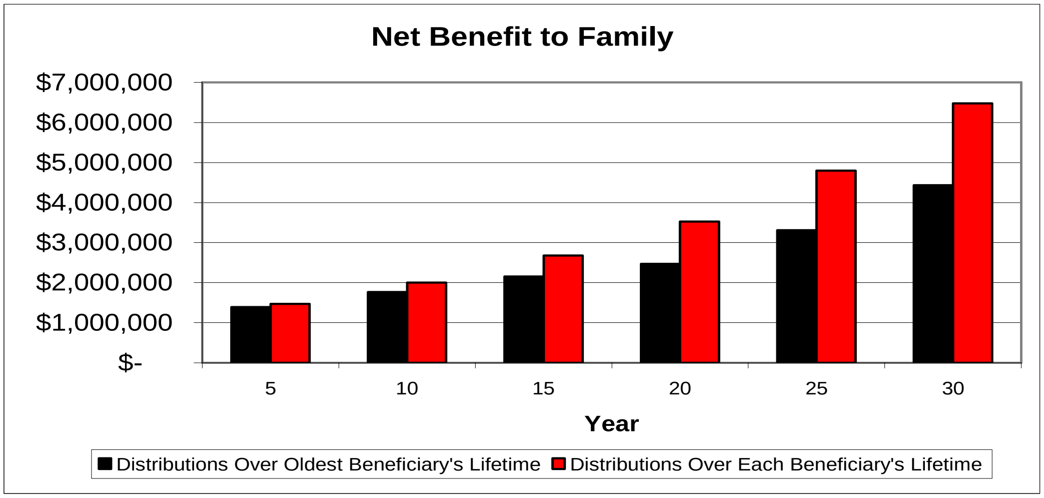
Each Beneficiary's Trust Share Qualifies for Maximum Stretchout

Where multiple beneficiaries exist and such beneficiary's interests are severable, it may be possible to divide the account into "separate accounts" payable to the different beneficiaries.[26] The regulations provide that separate shares must be established no later than December 31st of the year following the year of death for purposes of determining the applicable distribution period.[27]

The significance of separate shares is two-fold: (1) each separate share will allow the share beneficiary to calculate required minimum distributions based upon his or her own life expectancy; and (2) where multiple beneficiaries exist, one of which is not a qualified beneficiary, separate shares will allow for life expectancy distributions for the qualified segregated shares.

To better understand this concept, assume that an IRA owner has three beneficiaries (ages 65, 35 and 20). Now further assume a $1,000,000 IRA balance, an 8% growth rate and a 40% combined federal and state income tax rate. Based on these assumptions the chart below shows how much additional wealth is passed to family when an IRA is payable over each beneficiary's life expectancy:

[25] Treas. Reg. § 1.401(a)(9)-4, Q&A 4(a). See also PLR 9045050.
[26] Treas. Reg. § 1.401(a)(9)-8, A-3. A distinction should be drawn between "sub-accounts" and separate shares. With "sub-accounts," an account is held, managed and invested for a particular beneficiary. However, required minimum distributions of each sub-account are calculated based upon the oldest life expectancy of all sub-account beneficiaries.
[27] Treas. Reg. § 1.401(a)(9)-8, A-2(a)(2).



As shown above, the difference in whether maximum stretchout is achieved or not may be millions of dollars!

Under the previous 401(a)(9) proposed regulations, a trust that was named as the beneficiary of an IRA was permitted to divide into subtrusts for the benefit of other individuals or groups of individuals, and, in some cases, still have the separate share rules apply to each subtrust.[28] A number of Private Letter Rulings affirmed this position in situations where the account owner died before the required beginning date[29].

With the issuance of the Final Regulations, however, this planning technique was put into doubt. When the final Regulations were published, there was a significant change to Treas. Reg. § 1.401(a)(9)-4 A-5(c). The following language in the Proposed Regulations was omitted: "if the beneficiary of the trust named as beneficiary is another trust, the beneficiaries of the other trust will be treated as having been designated as beneficiaries . . . for purposes of determining the distribution period under section 401(a)(9)(A)(ii)". In its place is language that says that separate account rules "are not available to beneficiaries of a trust with respect to the trust's interest in the employee's benefit." Further doubt that separate share treatment could be attained when using a trust was cast when the IRS issued PLRs 200317041, 200317043 and 200317044.[30]

PLRs 200317044, 200317043 and 200317041 deal with three different taxpayers who are beneficiaries of the same trust. The PLRs tell us that the account owner died before his required beginning date and that his beneficiary designation form provided that the IRA was to be distributed to the trustee of the Trust at his death. The beneficiary designation form as well as the terms of the trust provided that the Trust be divided into equal accounts for the three beneficiaries. The beneficiary designation form also stated that the trustee of the Trust may establish separate IRAs in the name of the decedent

[28] Prop. Reg. § 1.401(a)(9)-8, Q&A 2.
[29] See PLRs 200234073 (August 23, 2002) and 200234074 (August 23, 2002) (Rulings where the 1987 Regulations applied).
[30] April 25, 2003.

for the benefit of the three beneficiaries. The PLRs concluded that the account could be divided into three accounts, one for each subtrust, but that distributions from each divided account must be paid over the life expectancy of the oldest of the three beneficiaries.

In PLR 200537044, however, the IRS has allowed each individual beneficiary of each trust share to use his/her individual life expectancy to calculate required minimum distributions for his/her share of the IRA.

In this ruling, upon the death of the Trustor, the IRA Inheritance Trust created separate sub-trusts for each beneficiary. Each separate trust that was created under the master trust instrument was named beneficiary of the IRA. The beneficiary designation form named the specific sub-trusts as beneficiaries of the IRA as follows:

- 3% - Individual A Trust, as a separate share under the John Smith IRA Inheritance Trust
- 10% - Individual B Trust, as a separate share under the John Smith IRA Inheritance Trust
- 4% - Individual C Trust, as a separate share under the John Smith IRA Inheritance Trust
- 5% - Individual D Trust, as a separate share under the John Smith IRA Inheritance Trust
- 4% - Individual E Trust, as a separate share under the John Smith IRA Inheritance Trust
- 32% - Individual F Trust, as a separate share under the John Smith IRA Inheritance Trust
- 14% - Individual G Trust, as a separate share under the John Smith IRA Inheritance Trust
- 14% - Individual H Trust, as a separate share under the John Smith IRA Inheritance Trust
- 14% - Individual I Trust, as a separate share under the John Smith IRA Inheritance Trust

Subsequent to the IRA owner's death, the IRA was divided into separates IRAs for each of the named beneficiaries.

This fact pattern can be differentiated from PLRs 200317044, 200317043 and 200317041 in that the IRA owner in PLR 200537044 expressly named each separate trust as beneficiaries of his IRA, with differing percentile interests. In PLRs 200317041, 200317043 and 200317044, it appears that the taxpayer named the "master" trust as beneficiary of the IRA with direction that it then be divided into equal shares and payable to the separate sub-trusts. The beneficiary designation form in PLR 200537044 names the separate sub-trusts *directly*. The IRA does not pass through the "master" trust and is then divided. Instead, the IRA is divided at the beneficiary designation level and payable to the separate trusts that were created upon the Trustor's death.

In essence, nine separate beneficiaries were named in PLR 200537044. This situation is analogous to an individual naming two completely independently executed trusts as equal beneficiaries of an IRA. The Service agreed that the separate trusts created under the master trust were the beneficiaries of the IRA and that the master trust "was not the named beneficiary of [the IRA]".

This ruling provides much needed guidance on how beneficiary designation forms need to be structured to obtain separate share treatment. Instead of simply naming the master trust as beneficiary of the IRA with directions to separate the trust and the IRA into separate shares, each separate sub-trust should be specifically named as partial beneficiary in the beneficiary designation form. This will allow each trust beneficiary to utilize his or her individual life expectancy as opposed to using the life expectancy of the oldest primary beneficiary to calculate required minimum distributions.

Conclusion

As explained in this article, by carefully integrating beneficiary designation planning and trust drafting, through the use of the "IRA Inheritance Trust™", one can stretch IRA payments over a longer period of years while also providing asset protection to the IRA owner's beneficiaries. By using this new trust strategy, the IRA owner may effectively transfer millions of additional dollars to his or her beneficiaries.