

## IRA BENEFICIARY OPTIONS

By

Karen Sinchak Higby

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In the past many months, it has become clear that the IRS will not allow trustees to “stretch” the income taxes on IRAs or other retirement accounts which are payable to the trust, unless an IRA conduit trust (a flow-through) is used; if a conduit trust is not used, the “default” rules described in paragraph 4 below will apply to the taxation of the account. In a conduit trust, minimum required withdrawals (and, perhaps, additional withdrawals) are made by the trustee and then distributed (in the same calendar year) to the beneficiaries. Under this arrangement, the life expectancy of the oldest beneficiary will be used to determine the required minimum distributions; this is true even if the trustee divides the IRA into separate shares. It appears that the only way to utilize the beneficiaries’ separate ages is to provide for the division of the accounts in the beneficiary designation itself.

Below is a summary of the several options available for paying a retirement account to the heirs (assuming the primary beneficiary is the spouse, if any) together with a brief summary of the characteristics of each option.

1. **Name heirs as beneficiaries.** The beneficiary designation on the account will name the heirs themselves. The beneficiary designation might look like this: “John Doe, Susan Doe and Mack Doe, *per stirpes*”.

- Stretch rules apply
- Each heir’s age may be used for determining minimum required withdrawals, as long as account is divided into separate shares by required deadline.
- Each heir has immediate control of his/her share (may take it out all at once).
- Probably no creditor protection (determined under state law where beneficiary resides)

2. **Name IRA Conduit Trust.** The beneficiary designation might look like this: “IRA Conduit Trust created under Smith Family Trust dated May 1, 2009”.

- There may be one IRA Conduit Trust which operates for the benefit of all or some of the trust beneficiaries.

- Alternatively, there may be separate IRA Conduit Trusts, one for each trust beneficiary.
- Regardless of which option is selected, similar rules apply:
  - 1) Tax deferral known as “stretch” is available; the oldest beneficiary’s age will be used for determining minimum required withdrawals. [See attached “Single Life Expectancy Table”]
  - 2) Trustee must take out required minimum amount each year; Trustee may be authorized to take out more, if desirable; the trust document may be customized to define specific purposes for which additional withdrawals may be made by trustee.
  - 3) All amounts withdrawn (required minimum plus any extra amount) must be paid to the beneficiary (if one IRA Conduit Trust is used) or the beneficiaries (if separate IRA Conduit Trusts are used). When one IRA Conduit Trust is created for all beneficiaries, distributions may be required on a pro rata basis or left to Trustee’s discretion.
  - 4) IRA account(s) should remain creditor-protected (divorce, bankruptcy, lawsuit, etc.) until fully withdrawn.
  - 5) **NO FUNDS WITHDRAWN FROM A RETIREMENT ACCOUNT MAY BE RETAINED BY THE TRUSTEE BEYOND THE END OF THE YEAR.**

3. **Name each separate IRA Conduit Trust as a beneficiary of the IRA(s).** Create separate IRA Conduit Trusts for each heir and make IRA payable to the separate trust, by beneficiary designation; may be equal or unequal. The beneficiary designation might look like this:

IRA Conduit Trust under Smith Family Trust FBO Susan L. Smith	1/3
IRA Conduit Trust under Smith Family Trust FBO Robert R. Smith	1/3
IRA Conduit Trust under Smith Family Trust FBO Elizabeth Smith Jones	1/3

- Stretch rules apply; each beneficiary’s age may be used for determining minimum required withdrawals.
- IRA custodian (and not the Trustee) will divide IRA(s) into separate accounts, one for each heir.

- Trustee must take out minimum required amount for each heir; trustee may be authorized to take out more.
- Account(s) should remain creditor-protected (divorce, bankruptcy, lawsuit, etc.) until fully withdrawn.
- All withdrawals must be paid to the beneficiary in the year of withdrawal.

4. **Name trust as beneficiary.** The beneficiary designation might look like this: "Acting Trustee of Smith Family Trust dated May 2, 2009".

- Stretch rules will most likely be denied.
- Minimum required withdrawals depend on the age of the IRA owner at the time of his/her death:
  - If IRA owner dies before his/her own required withdrawals begin, trust has five years to pay income taxes.
  - If IRA owner dies after his/her own required withdrawals begin, trustee has IRA owner's remaining life expectancy under the single life expectancy table to pay taxes.
- Amounts withdrawn by trustee may be retained in the trust indefinitely, subject to the provisions governing other trust assets; no amount is required by the IRA rules to be distributed to the beneficiary(ies) in any year.
- IRA account(s), including withdrawn amounts, can be protected from creditors and can be sheltered from future death taxes.

**Single Life Expectancy Table (ages 5-110)**

Age	Life Expectancy/ Divisor	Required Percentage Distribution	Age	Life Expectancy/ Divisor	Required Percentage Distribution
5	77.7	1.28%	58	27	3.70%
6	76.7	1.30%	59	26.1	3.83%
7	75.8	1.31%	60	25.2	3.96%
8	74.8	1.33%	61	24.4	4.09%
9	73.8	1.35%	62	23.5	4.25%
10	72.8	1.37%	63	22.7	4.40%
11	71.8	1.39%	64	21.8	4.58%
12	70.8	1.41%	65	21	4.76%
13	69.9	1.43%	66	20.2	4.95%
14	68.9	1.45%	67	19.4	5.15%
15	67.9	1.47%	68	18.6	5.37%
16	66.9	1.49%	69	17.8	5.61%
17	66	1.51%	70	17	5.88%
18	65	1.53%	71	16.3	6.13%
19	64	1.56%	72	15.5	6.45%
20	63	1.58%	73	14.8	6.75%
21	62.1	1.61%	74	14.1	7.09%
22	61.1	1.63%	75	13.4	7.46%
23	60.1	1.66%	76	12.7	7.87%
24	59.1	1.69%	77	12.1	8.26%
25	58.2	1.71%	78	11.4	8.77%
26	57.2	1.74%	79	10.8	9.25%
27	56.2	1.77%	80	10.2	9.80%
28	55.3	1.80%	81	9.7	10.30%
29	54.3	1.84%	82	9.1	10.98%
30	53.3	1.87%	83	8.6	11.62%
31	52.4	1.90%	84	8.1	12.34%
32	51.4	1.94%	85	7.6	13.15%
33	50.4	1.98%	86	7.1	14.08%
34	49.4	2.02%	87	6.7	14.92%
35	48.5	2.06%	88	6.3	15.87%
36	47.5	2.10%	89	5.9	16.94%
37	46.5	2.15%	90	5.5	18.18%
38	45.6	2.19%	91	5.2	19.23%
39	44.6	2.24%	92	4.9	20.40%
40	43.6	2.29%	93	4.6	21.73%
41	42.7	2.34%	94	4.3	23.25%
42	41.7	2.39%	95	4.1	24.39%
43	40.7	2.45%	96	3.8	26.31%
44	39.8	2.51%	97	3.6	27.77%
45	38.8	2.57%	98	3.4	29.41%
46	37.9	2.63%	99	3.1	32.25%
47	37	2.70%	100	2.9	34.48%
48	36	2.77%	101	2.7	37.03%
49	35.1	2.84%	102	2.5	40.00%
50	34.2	2.92%	103	2.3	43.47%
51	33.3	3.00%	104	2.1	47.61%
52	32.3	3.09%	105	1.9	52.63%
53	31.4	3.18%	106	1.7	58.82%
54	30.5	3.27%	107	1.5	66.66%
55	29.6	3.37%	108	1.4	71.42%
56	28.7	3.48%	109	1.2	83.33%
57	27.9	3.58%	110	1.1	90.90%