

# TAX-SMART CHARITABLE GIVING, ESPECIALLY WITH RETIREMENT ASSETS

## The Community Foundation Tampa Bay Outstanding Speakers Series

Feathersound Country Club - Clearwater, Florida  
April 29, 2025

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### *What Will Be Covered Today:*

- Tax-Smart Charitable Giving, Especially Retirement Assets
  - “Bunching gifts” and using appreciated stock
  - Donor advised funds are the best vehicle for bunching gifts
  - IRAs are the best asset after age 70 ½
- Rules & planning for distributions from retirement accounts
  - Inherited IRAs: Maximum years to liquidate – SECURE & SECURE 2.0 laws
  - Impact of the 2024 Treasury Department final regulations
  - Tax advantages for a surviving spouse

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## “Bunching” Gifts

- To get an income tax benefit from a charitable gift, a donor has to itemize tax deductions rather than take the standard deduction
- In 2017, about 33% of tax returns itemized deductions.
- In 2021, less than 10% of tax returns itemized deductions.

**It’s gotten harder to get an income tax benefit  
from a charitable gift**

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## “Bunching” Gifts

Example: Married donors contribute \$10,000 per year to charities. Pay \$35,000 state and local taxes

- But with \$10,000 SALT limit, their itemized deductions are only \$20,000.
- So they take the \$30,000 standard deduction instead
- They get no tax benefit from their charitable gifts

BUNCH gifts: Contribute \$40,000

- They can itemize this year. Tax savings from gifts.
- Then ask the charities to leave them alone for 4 years

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## “Bunching” Gifts

- Example: Married donors contribute \$10,000 per year to charities. Pay \$35,000 state and local taxes
  - But with \$10,000 SALT limit, their itemized deductions are only \$20,000.
  - So they take the \$30,000 standard deduction instead
  - They get no tax benefit from their charitable gifts
- BUNCH gifts: Contribute \$40,000 **to a DAF.**
  - They can itemize this year. Tax savings from gifts.
  - **The DAF distributes \$10,000 annually over the next four years to their favorite charities**

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MAKE CHARITABLE GIFTS  
OF APPRECIATED STOCK

### #1 -DONOR's DOUBLE-TAX SAVINGS

	Sell \$100,000 -cash gift		
Cash from the sale	\$100,000		
-Charitable Gift	<u>- 10,000</u>		
Cash on hand	\$90,000		

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## MAKE CHARITABLE GIFTS OF APPRECIATED STOCK

### #1 -DONOR's DOUBLE-TAX SAVINGS

	<b>Sell \$100,000 -cash gift</b>	<b>Sell \$90,000 -stock gift</b>
Gain on the sale	\$100,000	\$90,000
-Charitable Dedn	<u>- 10,000</u>	<u>- 10,000</u>
= Income	\$90,000	<b>\$80,000</b>
Cash on hand	\$90,000	\$90,000

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## MAKE CHARITABLE GIFTS OF APPRECIATED STOCK

### #1 -DONOR's DOUBLE-TAX SAVINGS

- Charitable Income Tax Deduction for the Full Appreciated Value of the Stock
- Never Pay Income Tax on the Growth of the Value of the Stock

### #2 -CHARITY WON'T PAY INCOME TAX WHEN IT SELLS STOCK (Charity is tax-exempt)

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## Tax Court: No Taxable Gain to Donor When Transfer Stock to DAF

- Taxpayer donated stock of a closely-held business to a donor advised fund at a national DAF administrator.
- The charity had a stated policy that it sold donated property shortly after receipt to reduce market risk.
- The IRS argued that such a policy meant that the donor should be taxed on the gain as if the donor had personally sold the stock.
- The Tax Court concluded in SUMMARY JUDGEMENT that the taxpayer is NOT taxed on gain from charity's sale
- *Jon Dickinson v. Commissioner*, T.C. Memo. 2020-128 (Sept 3, 2020)

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## MAKE CHARITABLE GIFTS OF APPRECIATED STOCK

### **What about investment assets that have fallen in value?**

- Don't donate to charity
- Sell and take tax loss on sale

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## MAKE CHARITABLE GIFTS OF APPRECIATED STOCK

**In theory, you should make *all* of your gifts with appreciated stock.**

But is that really doable?

Could you make several \$100 charitable gifts by giving those several charities each just 2 shares of stock that is trading at \$50?

Is that practical in the real world?

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## MAKE CHARITABLE GIFTS OF APPRECIATED STOCK

### **DONOR ADVISED FUNDS**

#### **Administrative Convenience**

- split large gift to many charities
- can establish fast! Compare private foundation
- anonymous gifts possible with DAFs
- one receipt from DAF/PF instead of many CWAs from many charities

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## Who Offers Donor Advised Funds?

- Traditionally – Local Community Foundations
  - *The Community Foundation Tampa Bay*
- Since 1993, “National DAFs” Associated With Financial Establishments
  - *Fidelity, Schwab, Vanguard, Goldman Sachs, etc.*
- And, national charities, colleges and universities,
  - *The National Christian Foundation*
  - *Harvard University*

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## Donor Advised Funds

### 2023 Donor-Advised Fund Report

*National Philanthropic Trust*

PFs

- 1,948,000 – Number of DAFs in 2022     **130k**
- \$229 billion – assets held by DAFs     **\$1,158b**
- \$ 85 billion – contributions to DAFs
- \$ 52 billion – grants paid by DAFs     **\$ 100b**

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## Growth in Number of Donor Advised Funds

Year	Number of DAFs
2016	290,111
2018	732,128
2020	1,565,099
2021	1,893,762
2022	1,948,545

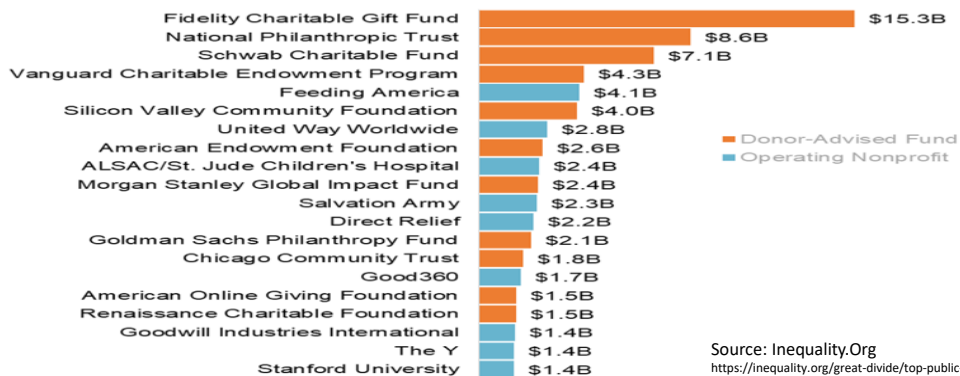
**Over 85% of the nation's DAFs  
are less than seven years old**

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## 2021: Gifts to DAFs Constituted 22% of All Individual Charitable Giving

*Six of the Top-Ten recipients of charitable gifts were DAF sponsors*

### 20 U.S. Public Charities Receiving the Most Contributions in 2021



Source: Inequality.Org  
<https://inequality.org/great-divide/top-public-charities>

Sources: Estimated university contributions are from Bloomberg's list of top university fundraisers. Estimated non-DAF, non-university contributions are from Forbes' list of America's Top 100 Charities. DAF contributions are from IPS analysis of tax form 990s of DAF sponsors, publicly available from the Internal Revenue Service.

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## MAKE CHARITABLE GIFTS OF APPRECIATED STOCK

- In theory, you should make *all* of your gifts with appreciated stock.
- *Exception:* most donors over age 70 ½ should make *ALL* of their charitable gifts from their IRAs: “*Qualified Charitable Distribution*” (QCD)
- **Your IRA can be your charitable foundation !**
  - You don’t need a private foundation or a donor advised fund (if you make charitable donations of under \$100,000 per year).

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## LIFETIME CHARITABLE GIFTS FROM IRAs

### General Rule:

- EVERY distribution from a person’s retirement account (while that person is alive) will be taxable income to the owner of the account, even if the check is written to someone other than the owner.

### EXCEPTION:

- “Qualified Charitable Distributions” – Over age 70 ½  
(a/k/a “QCDs” – “Charitable IRA Rollover” )

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## Qualified Charitable Distribution -- Lifetime Gifts from IRAs –

- Eligible Donors:
  - Won't report charitable gifts from IRAs as taxable income
  - Not entitled to charitable income tax deduction

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## Qualified Charitable Distribution -- Lifetime Gifts from IRAs –

- Law Permanent! 2015 PATH Act Dec 20.2015
- Eligible Donors:
  - Won't report charitable gifts from IRAs as taxable income
  - Not entitled to charitable income tax deduction
- ☐ Example: Donor, age 75, who has a \$10,000 RMD from IRA, says:
  - ☐ "Issue a check to a charity for \$4,000"
  - ☐ "Issue a check to me for \$6,000"

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Check only one box.

4 ☐ Married filing jointly (even if only one had income) ☐ If the qualifying person is a child who has your dependent, enter the child's name here. ☐ 5 ☐ Qualifying widow(er) (see instructions)

3 ☐ Married filing separately. Enter spouse's SSN above and full name here. ☐

**Exemptions**

6a ☐ Yourself. If someone can claim you as a dependent, **do not** check box 6a. ☐

b ☐ Spouse ☐

c **Dependents:**

(1) First name	Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) <input type="checkbox"/> If child under age 17 qualifying for child tax credit (see instructions)
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

If more than four dependents, see instructions and check here ☐

d Total number of exemptions claimed

**Income**

7 Wages, salaries, tips, etc. Attach Form(s) W-2  7

8a **Taxable** interest. Attach Schedule B if required  8a

b **Tax-exempt** interest. **Do not** include on line 8a  8b

9a Ordinary dividends. Attach Schedule B if required

b Qualified dividends  9b

10 Taxable refunds, credits, or offsets of state and local income taxes  10

11 Alimony received  11

12 Business income or (loss). Attach Schedule C or C-EZ  12

13 Capital gain or (loss). Attach Schedule D if required. If required, check here ☐ 13

14 Other gains or (losses). Attach Form 4797  14

15a IRA distributions  15a 10,000  b Taxable amount  6,000 **QCD**

16a Pensions and annuities  16a  b Taxable amount  16b

17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E  17

18 Farm income or (loss). Attach Schedule F  18

19 Unemployment compensation  19

20a Social security benefits  20a  b Taxable amount  20b

21 Other income. List type and amount  21

22 Combine the amounts in the far right column for lines 7 through 21. This is your **total income**  22

Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld.

If you did not get a W-2, see instructions.

**"QCD"**

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## Qualified Charitable Distribution -- Lifetime Gifts from IRAs --

- IRA owner must be over age 70 ½
- Maximum: \$100,000 per year  
-- Indexed for inflation: \$108,000 in 2025
- Yes! Charitable gift satisfies the required minimum distribution requirement from IRA!

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## WHO WINS?

- Donors who do not itemize tax deductions (“standard deduction”)
- Donors who live in states where the state income tax laws do not permit deductions for charitable contributions (Ohio, Massachusetts, etc.)

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## WHO WINS ?

- Donors who incur taxes as their income increases
  - social security benefits taxable
  - Medicare “B” premiums
  - 3.8% health tax if AGI > \$200,000 (\$250,000 married)
- The heirs
  - inherited stock gets step-up tax basis
  - inherited IRAs are taxable income

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## LEGAL REQUIREMENTS

- Over age 70 1/2
- IRA (only) – not 403(b), 401(k), etc.
- Maximum: \$100,000 per year
  - *Indexed for inflation: \$108,000 in 2025*
- “Directly” from the IRA to charity
  - “IRA checkbooks” are OK

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## LEGAL REQUIREMENTS

- ELIGIBLE CHARITY
  - a public charity or a private *operating* foundation
  - however, a PF, donor advised fund  
or supporting org is not eligible
- Must qualify for full charitable deduction
  - no dinners; no purchases at auctions, etc.

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## LEGAL REQUIREMENTS

- Taxable part of IRA distributions (only)
  - tax-free distributions protected
- Donor must have letter from the charity that the donor received no goods or services in exchange for the gift

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## TECHNICAL ISSUES

- Charitable IRA gifts can satisfy legally binding pledges!
- Joint return? Up to \$200,000 (*\$216,000 in 2025*)
- No withholding taxes
- A beneficiary of an inherited IRA who is over age 70 1/2 can make charitable gifts of required distributions

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## Qualified Charitable Distribution -- Lifetime Gifts from IRAs --

- This law effectively makes an IRA into a charitable foundation
  - [seniors don't need a private foundation or a DAF if they have an IRA]

New – since 2023:

- A person over age 70 ½ can make a once-in-a-lifetime transfer [maximum \$54,000 in 2025] from an IRA to a charitable remainder trust or for a charitable gift annuity. *[from SECURE 2.0 legislation]*

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## IRA QCDs to CRTs and to CGAs

IRA owners over age 70 ½ are now eligible to make a once-in-a-lifetime deferred gift of up to \$50,000 (\$54,000 in 2025) directly from an IRA to a charity for a charitable gift annuity (“CGA”) or to a charitable remainder trust (“CRT”).

- The IRA distribution is excluded from the IRA owner's taxable income as QCD.
- Beneficiary of CGA or CRT can only be the IRA owner and/or that person's spouse.
- The income interest (of the CGA or the CRT) must be non-assignable.
- **All** distributions made from the CGA or CRT will be taxed as ordinary income
- The CGA or the CRT must be funded exclusively with such IRA funds (no other assets can be commingled).
  - The \$50,000 limit means that a CRT will generally not be economically viable.
  - Right now, the immediate use of this law will be limited to CGAs.
- The CGA must have a minimum 5% payout and must begin within one year

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## IRA QCDs to CRTs and to CGAs

- A CGA is a great option for seniors who want to support a charity and who also want to receive a steady and reliable income stream for the rest of their lives.
- A CRT will generally not be an economically viable option for QCDs, unless future legislation increases the \$50,000 limit or permits IRA distributions to be added to a CRUT that holds other assets.

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## RETIREMENT ACCOUNTS

- 1. Tax deduction when money is deposited into the account
- 2. Trust/custodial account is tax-exempt
  - compound growth without income taxes
- 3. Recipient pays income tax only when receives distribution  
(there is no constructive receipt with qualified plans)

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## ROTH RETIREMENT ACCOUNTS

- 1. **No** tax deduction when money is deposited into the account
- 2. Trust/custodial account is tax-exempt
  - compound growth without income taxes
- 3. Distributions of investment income are TAX-FREE if:
  - Received after age 59 ½, **and**
  - Received after having had a Roth account for at least 5 years

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USUAL OBJECTIVE:  
Defer paying income taxes  
in order to get greater cash flow

	<u>Principal</u>	<u>10% Yield</u>
• Pre-Tax Amount	\$ 100,000	\$ 10,000
• Income Tax		
on Distribution (40%)	<u>40,000</u>	
• Amount Left to Invest	\$ 60,000	\$ 6,000

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## RETIREMENT PLAN LAW CHANGES

*"SECURE ACT 2.0" – Dec. 29, 2022*

- RMD Age : **73** (*75 in 2033*) – up from 72 (and 70 ½)  
(Despite new age 73, charitable QCD still at age 70 ½)

**There is a 25% penalty if less than RMD is distributed**

**Note: Before 2023, the penalty had been a 50% penalty.**

**"SECURE 2.0" reduced the penalty to 25%**

And it is possible to have the penalty be as little as 10%.

(e.g., the taxpayer voluntarily pays 10% before receiving an IRS notice)

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## REQUIRED MINIMUM DISTRIBUTIONS

**\*LIFETIME DISTRIBUTIONS\***

<u>Age of Account Owner</u>	<u>Required Payout</u>
<b>73</b>	<b>3.79%</b>
<b>75</b>	<b>4.07%</b>
<b>80</b>	<b>4.95%</b>
<b>85</b>	<b>6.25%</b>
<b>90</b>	<b>8.27%</b>
<b>95</b>	<b>11.24%</b>
<b>100</b>	<b>15.71%</b>

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## REQUIRED MINIMUM DISTRIBUTIONS \*LIFETIME DISTRIBUTIONS\*

<u>Age of Account Owner</u>	<u>Required Payout</u>
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<b>100</b>	<b>15.71%</b>

There are no *lifetime* RMDs from your own Roth account  
*Roth IRA Roth 401(k) Roth 403(b)*

Inherited Roth accounts, by comparison, are subject to an RMD requirement

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## Stretch IRA

- “Stretch IRA” means an inherited retirement account (e.g., IRA), where payments are gradually made over the beneficiary’s life expectancy

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# Distributions After Death

## *“life expectancy”*

Oversimplified: Half of population will die before that age, and half will die after

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### Stretch IRA – The law before 2020

Age of Beneficiary		Life Expectancy	
30		83	53.3 more years
40		83	
50		84	
60		85	25.2
70		89	
80		91	11.2
90		96	

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## Stretch IRA – The law before 2020

Required Minimum Distributions (RMDs) from an Inherited IRA

Age of Beneficiary		Life Expectancy	
30	1.9%	83	53.3 more years
40		83	
50		84	
60	4.0%	85	25.2
70		89	
80	8.9%	91	11.2
90		96	

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## Stretch IRA – The law before 2020

Required Minimum Distributions (RMDs) from an Inherited IRA

Age of Beneficiary		Life Expectancy	
30	1.9%	83	53.3 more years
40		83	
50		84	Age 60 $1/25.2 = 4.0\%$
60	4.0%	85	25.2 Age 61 $1/24.2 = 4.1\%$
			Age 62 $1/23.2 = 4.3\%$
70		89	
80	8.9%	91	11.2 Age 85 <i>Empty</i>
90		96	

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## Stretch IRA

- “Stretch IRA” means an inherited retirement account (e.g., IRA), where payments are gradually made over the beneficiary’s life expectancy
- Until the enactment of the SECURE Act, it was fairly easy for any beneficiary who inherited a retirement account to receive distributions until (at least) the age of 83 (older for beneficiaries who inherited at an older age)
- Beginning 2020: General rule is a ten-year liquidation

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### Stretch IRA – The law before 2020

Required Minimum Distributions (RMDs) from an Inherited IRA

Age of Beneficiary		Life Expectancy		
30	1.9%	83	10 years	Beginning in the year 2020, the general rule is that an inherited IRA must be liquidated in just ten years. For example, if the IRA owner died at age 80, the IRA account for younger beneficiaries must be empty by the end of the 10 <sup>th</sup> year.
40	2.3%	83	10 years	
50	2.9%	84	10 years	
60	4.0%	85	10 years	
70	5.3%	89	18.7	However, an exception applies for beneficiaries who aren’t more than 10 years younger. They can take over life expt.
80	8.9%	91	11.2	

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## Stretch IRA – The law before 2020

Required Minimum Distributions (RMDs) from an Inherited IRA

Age of Beneficiary		Life Expectancy		<p>Beginning in the year 2020, the general rule is that an inherited IRA must be liquidated in just ten years. <b>Even though the account must be empty in ten years, the 2024 final regs generally require RMDs in each of the nine years after death.</b></p>
30	1.9%	83	10 years	
40	2.3%	83	10 years	
50	2.9%	84	10 years	
60	4.0%	85	10 years	
70	5.3%	89	18.7	
80	8.9%	91	11.2	
				<p>However, an exception applies for beneficiaries who aren't more than 10 years younger. They can take over life expct.</p>

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## Why do people want a long stretch?

When administering a decedent's estate, isn't the usual objective to close the estate within a year of death and have everything distributed to the heirs and the beneficiaries?

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Distributions from Inherited Retirement  
Accounts Are Taxable Income  
*Income In Respect of A Decedent "IRD" – §691*

- No stepped up basis for retirement assets
- Distributions from inherited retirement accounts are usually taxable income to the beneficiaries.

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USUAL OBJECTIVE:  
Defer paying income taxes  
in order to get greater cash flow

	<u>Principal</u>	<u>10% Yield</u>
• Pre-Tax Amount	\$ 100,000	\$ 10,000
• Income Tax		
on Distribution (40%)	<u>40,000</u>	
• Amount Left to Invest	\$ 60,000	\$ 6,000

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## LIQUIDATE INHERITED IRAs IN TEN YEARS

### SECURE ACT -- EFFECTIVE DATES:

- \* Rules apply for decedents dying after December 31, 2019
- \* For decedents who died **before 2020**, beneficiaries can continue to receive payments over remaining life expectancy.
- However, upon the death of that beneficiary, the 10 year clock starts ticking.
- **EXAMPLE:** A 60 year old beneficiary inherited an IRA in 2019 when he had a life expectancy to age 85 (for 25 years). That beneficiary dies 2 years later at age 62. The inherited IRA must be empty in the 10<sup>th</sup> year after death [rather than the year that the individual would have been age 85]

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## RETIREMENT PLANS SUBJECT TO THE LAW

- Section 401(a) - Employer pension, profit sharing and stock bonus plans [incl. 401(k)]
- Section 408 – IRAs
- Section 403(b) - School and charity employers
- Section 457(b) plans - Government and tax-exempt employers

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# Distributions After Death

Company policy may require faster liquidation

- Employer might require account of deceased employee to be liquidated in just one year
- No such problem with IRAs
- Beneficiary of employer plan account can compel transfer to an inherited IRA

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## REQUIRED MINIMUM DISTRIBUTIONS \* DEFINITIONS \*

- **Required Beginning Date (“RBD”)**  
April 1 in year after attain age 73

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## Distributions After Death (for decedents who die in 2020 and later)

### Maximum time period to empty account:

- Ten years

#### 2024 Final Regulations

- Death **before** “required beginning date”? (e.g., before age 73)
  - No required distributions in the first nine years. The account needs to be empty by December 31 of the tenth year after the year of the decedent’s death, or else there is a 25% penalty on the balance.
- Death **after** “required beginning date”? (e.g., after age 73)
  - The regulations require the beneficiary to receive minimum distributions every year in years 1 through 9, and the account must be empty at the end of the tenth year.
- **Failure to receive that year’s RMD triggers a 25% excise tax on the shortfall**

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## Distributions After Death (for decedents who die in 2020 and later)

April 2024: IRS announced it will NOT apply the 50%/25% penalties to RMDs in years 2021 through 2024 for accounts of individuals who died after 2019. (*IRS Notice 2024-35 April 16, 2024*).  
 -- Exemption only applies to **non**-eligible designated beneficiaries (this term will be defined in a few minutes)  
 -- Eligible designated beneficiaries (“EDBs”) **are** required to receive RMDs in 2021, 2022, 2023 & 2024.

#### 2024 Final Regulations

- Death **before** “required beginning date”? (e.g., before age 73)
  - No required distributions in the first nine years. The account needs to be empty by December 31 of the tenth year after the year of the decedent’s death, or else there is a 25% penalty on the balance.
- Death **after** “required beginning date”? (e.g., after age 73)
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# AGE AT DEATH

## MEDIAN AGE AT DEATH ON FEDERAL ESTATE TAX RETURNS:

Age 80 – Men

Age 84 - Women

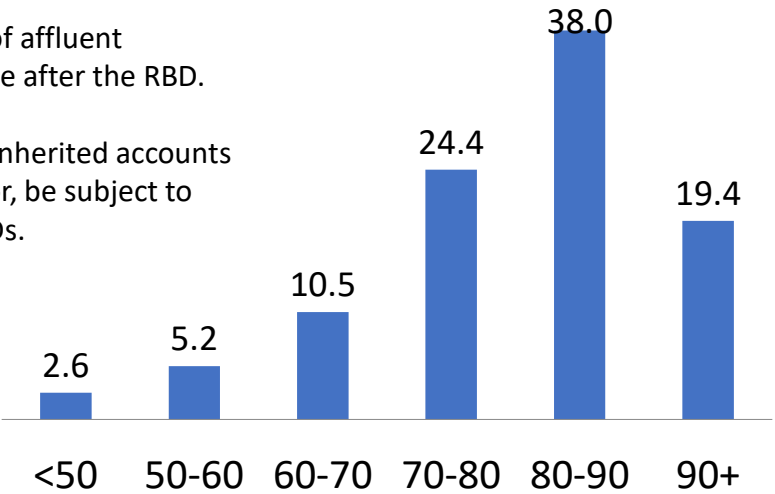
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# AGE AT DEATH

Percentage of Federal Estate Tax Returns

A majority of affluent taxpayers die after the RBD.

Most large inherited accounts will, therefor, be subject to annual RMDs.



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## MANDATORY DISTRIBUTIONS

[Assume inherit IRA at age 80 and die at 94]

### Inherited Roth IRAs

#### Designated Beneficiary is not an EDB?

- There are no RMDs in years 1 through 9.  
It doesn't matter at what age the decedent died.
- The only requirement is that the inherited Roth IRA must be empty on December 31 of the 10<sup>th</sup> year.

Logic: Roth IRAs have no required lifetime distributions. So, there is no RBD.

Therefore, all deaths are before a required beginning date. Reg § 1.408-8(b)(ii).

#### Beneficiary is an EDB? (i.e., a spouse; someone not more than ten years younger, etc.)

- EDB can take distributions over more than ten years
- Then there are RMDs every year, beginning in the year after death.

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## Implications for Planning

	<u>Jan 1,</u> <u>2015</u>	<u>Jan 1, 2025</u>	<u>Growth</u>
S & P 500	2,050	5,900	188%
Dow Jones	17,300	42,500	146%

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## Implications for Planning

	<u>Jan 1,</u> <u>2015</u>	<u>Jan 1, 2025</u>	<u>Growth</u>
S &P 500	2,050	5,900	188%
	\$1,000,000		\$2,878,049
Dow Jones	17,300	42,500	146%
	\$1,000,000		\$2,456,647

### Inherited Roth IRA

- Use other assets for spending over ten years
- Allow inherited Roth account to compound tax-free
- Consider lifetime Roth IRA conversions,  
to convert taxable accounts into tax-free Roth accounts
- Roth advantage: no lifetime RMDs from your own Roth accounts,  
and no RMDs in years 1 through 9 from inherited Roth accounts

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## Implications for Planning

	<u>Jan 1,</u> <u>2015</u>	<u>Jan 1, 2025</u>	<u>Growth</u>
S &P 500	2,050	5,900	188%
	\$1,000,000		\$2,878,049
Dow Jones	17,300	42,500	146%
	\$1,000,000		\$2,456,647

### Inherited Roth IRA

- Use other assets for spending over ten years
- Allow inherited Roth account to compound tax-free

### Inherited Taxable IRA

- Large distribution in 10<sup>th</sup> year: highest income tax rates ?
- Do “tax-bracket management” over 10 years. Withdraw 10% each year?

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## Implications for Planning

### *Inherited Taxable Retirement Accounts*

#### **The inherited accounts will be liquidated in ten years**

- Beneficiaries can spend from inherited retirement accounts for ten years, thereby permitting other investments to grow on a tax-favored basis.
- Beneficiaries can do an indirect rollover to their own retirement account.

#### Rollovers of Inherited Accounts

- Only a surviving spouse can rollover an inherited account from a deceased spouse.
- The best that a child can do is receive distributions from an inherited account over ten years.

But many children are not contributing the maximum to their own retirement accounts at work.

- Costs of raising family, etc. prevent them from contributing the maximum (\$23,500 in 2025).

Idea: Increase 401(k) contributions, and then take larger distributions each year from an inherited account to offset the reduced paycheck.

Net effect: An “indirect rollover” from parent’s retirement account to the child’s retirement account.

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## Implications for Planning

### *Inherited Taxable Retirement Accounts*

#### **The inherited accounts will be liquidated in ten years**

- Beneficiaries can spend from inherited retirement accounts for ten years, thereby permitting other investments to grow on a tax-favored basis.
- Beneficiaries can do an indirect rollover to their own retirement account.

#### **Income-tax bracket management**

- Each year, withdraw enough to stay in a low income-tax bracket
- Reinvest on a tax-favored basis (e.g., 529 college savings plans; life insurance)
- Multimillion-dollar taxable accounts? Add more beneficiaries
  - Example: 2 children & 4 grandchildren? Have all six be beneficiaries. Spread income over 60 income tax returns instead of just 20 tax returns.

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## Distributions After Death (for decedents who die in 2020 and later)

### **Maximum time period to empty account:**

- **Ten years, or**
- **Remaining life expectancy of an “*eligible designated beneficiary*” (RMD every year)**
  - *surviving spouse*    -- *minor child of the decedent*
  - *disabled individual* -- *chronically ill person*
  - *beneficiary within 10 years of age of decedent*

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## LIQUIDATE INHERITED IRAs IN TEN YEARS

### **EXCEPTION: “Eligible Designated Beneficiary”**

- *surviving spouse*    -- *minor child of the decedent*
- *disabled individual*    -- *chronically ill person*
- *beneficiary within 10 years of age of decedent*

An ***eligible*** designated beneficiary may take distributions over her/his life expectancy \*

- \* When minor child attains majority, 10 year clock starts
- \* When an EDB dies, 10 year clock starts for successor

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## MANDATORY DISTRIBUTIONS

[Assume sister inherits IRA at age 80 and dies at 94]

- ☐ D. John Mustard died this year at age 85.
- ☐ He named his sister, Honey (age 80 this year) as the beneficiary of 50% of the IRA.
- ☐ He named his two children as beneficiaries of the other 50% (25% apiece). The children are ages 50 and 52.

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## MANDATORY DISTRIBUTIONS

[Assume inherit IRA at age 80 and die at 94]

### AGE

**80**

### **IRA Owner's RMD in the year of death**

*Reg. § 1.402(c)-2(j)(3)*

- **If the deceased owner had not withdrawn the entire RMD before the date of death, then the balance must be distributed to *the beneficiary* of the IRA that year.**
- **[ The regulations have a grace period if the full distribution wasn't taken in year of death: the beneficiary can receive the distribution in the next year and avoid the 25% penalty. ]**
- *Reg § 54.4974-1(g)(3)*

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## Case study: IRA payable 50% to sister and 50% to children

- What are required distributions in years after death?
- Problem when some beneficiaries are EDBs and others are not EDBs:
  - the EDB may have to receive all assets in just ten years rather than over the longer time period of the EDB's remaining life expectancy.

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### MANDATORY DISTRIBUTIONS

[Assume inherit IRA at age 80 and die at 94]

**AGE****81****85****90****91****92****Sister**

As an EDB, the general rule is that the sister can receive distributions over her remaining life expectancy, rather than just over 10 years.

Does that rule apply here?

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## MANDATORY DISTRIBUTIONS

[Assume inherit IRA at age 80 and die at 94]

<u>AGE</u>	<u>Sister</u>	
81	Are there any distributions required between age 81 and age 90? Regs:	As an EDB, the general rule is that the sister can receive distributions over her remaining life expectancy, rather than just over 10 years. Does that rule apply here? <b>NO!</b>
85	Yes. There is an RMD every year	
90	100.00%	
91	empty	
92	empty /	

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Prop. Reg. §1.401(a)(9)-5(d)(1) (2022)

Required minimum distributions from defined contribution plans.

**EXPLANATION FROM THE PREAMBLE TO THE REGS:**

“For example, if an employee died ***after the required beginning date*** with a designated beneficiary who is not an eligible designated beneficiary, then the designated beneficiary would continue to have required minimum distributions calculated using the ***beneficiary's*** life expectancy as under the existing regulations **for up to nine calendar years after the employee's death**. In the tenth year following the calendar year of the employee's death, a full distribution of the employee's remaining interest would be required.”

But would this rule apply to Honey? Honey is less than 10 years younger than D. John. So, Honey is an “eligible designated beneficiary”

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Prop. Reg. §1.401(a)(9)-5(d)(1) (2022)

Required minimum distributions from defined contribution plans.

### EXPLANATION FROM THE PREAMBLE TO THE REGS:

“these proposed regulations provide a general rule under which, if an employee has more than one designated beneficiary, **and at least one of them is not an eligible designated beneficiary**, then for purposes of section 401(a)(9), the employee is treated as not having an *eligible* designated beneficiary. As a result, the employee's interest must be distributed no later than the end of the tenth calendar year following the calendar year of the employee's death.”

Sorry, Honey! D. John's adult children are also considered.  
So these payout rules *will* apply to you.

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**OBSERVE: If the beneficiary had been a surviving spouse** (instead of a sister), then the surviving spouse could do a rollover to that spouse's own IRA to avoid a 10-year liquidation.

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<u>AGE</u>	<u>Sister</u>	<u>AGE</u>	<u>RMD %</u>
81	9.5%	81	9.5%
	15.4%	82	10.5%
90	100.0%	83	11.8%
91	empty	84	13.3%
92	empty	85	15.4%
		86	18.2%
		87	22.2%
		88	28.6%
		89	40.0%
		90	100.0%

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**RMDs ARE LESS BURDENSOME FOR  
YOUNGER BENEFICIARIES (e.g., children)**

<u>Age of Beneficiary</u>	<u>Life Expectancy</u>
30	1.9% 53.3 more years
40	43.6
50	2.9% 34.2
60	25.2
70	5.3% 18.7
81	9.5% 10.5

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RMDs ARE LESS BURDENSOME FOR  
YOUNGER BENEFICIARIES (e.g., children)

Age of Beneficiary		Life Expectancy
	30	1.9% 53.3 months
	40	43.6
→	50	2.9% 34.2
	60	25.2
	70	5.3% 18.7
→	81	9.5% 10.5

If only the children (ages 50 and 52) had been named as the IRA beneficiaries (and not the sister), then the first year's RMD would have only been about 3%. But when there are multiple beneficiaries, then the RMD for *EACH* beneficiary is computed based on the life expectancy of the oldest beneficiary.  
(e.g., 81 year-old sister Honey)

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MANDATORY DISTRIBUTIONS  
[Assume inherit IRA at age 80 and die at 94]

AGE	Accumulation Trust
81	9.52%
85	15.38%
90	100.00%
91	empty
92	empty



Under the 2024 treasury regulations, the “designated beneficiary” would have to receive RMDs over each of the nine years after death, and the account would have to be liquidated in the tenth year. WHY?  
Because death occurred *after* the “required beginning date”

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## MANDATORY DISTRIBUTIONS

[Assume inherit IRA at age 80 and die at 94]

<u>AGE</u>	<u>Accumulation</u> <u>Trust</u>
81	-- 0%--
85	-- 0%--
90	100.00%
91	empty
92	empty

Question: Under the 2024 treasury regulations, what are the required distributions if death occurred **before** the "required beginning date"?

Answer: there are no RMDs in years one through nine.

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## MANDATORY DISTRIBUTIONS

[Assume inherit IRA at age 80 and die at 94]

### Inherited Roth IRAs

#### Designated Beneficiary is not an EDB?

- There are no RMDs in years 1 through 9.  
It doesn't matter at what age the decedent died.
- The only requirement is that the inherited Roth IRA must be empty on December 31 of the 10<sup>th</sup> year.

Logic: Roth IRAs have no required lifetime distributions. So, there is no RBD.

Therefore, all deaths are before a required beginning date. Reg § 1.408-8(b)(ii).

#### Beneficiary is an EDB? (i.e., a spouse; someone not more than ten years younger, etc.)

- EDB can take distributions over more than ten years
- Then there are RMDs every year, beginning in the year after death.

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## Distributions After Death

(for decedents who die in 2020 and later)

### **Maximum time period to empty account:**

- **Ten years** *(No RMD until year #10), or*
- **Remaining life expectancy of an “eligible designated beneficiary”, or**
- **Five Years, or**
- **“Ghost life expectancy”**

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### REQUIRED MINIMUM DISTRIBUTIONS

*\*Ghost Life Expectancy\**

<u>Age of Beneficiary</u>	<u>Life Expectancy</u>
<b>74</b>	<b>15.6 more years</b>
<b>75</b>	<b>14.8</b>
<b>76</b>	<b>14.0</b>
<b>77</b>	<b>13.3</b>
<b>78</b>	<b>12.6</b>
<b>78</b>	<b>11.9</b>
<b>80</b>	<b>11.2</b>

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## Distributions After Death (for decedents who die in 2020 and later)

### Maximum time period to empty account:

- Ten years, *or*
  - Remaining life expectancy of an “*eligible designated beneficiary*”, *or*
  - Five Years, *or*
  - “Ghost life expectancy”
- If on “determination date”,  
**EVERY** beneficiary is a human being  
(designated beneficiary)

If on “determination date”,  
 there is a beneficiary that is  
 not a human being

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## REQUIRED MINIMUM DISTRIBUTIONS \* DEFINITIONS \*

- **Required Beginning Date (“RBD”)**  
 April 1 in year after attain age 73
- **Designated Beneficiary (“DB”)**  
**A human being.**  
 An **estate** or a **charity** can be a beneficiary of an account, **but it cannot be a DB.**
- **Determination Date**  
 September 30 in **year after death.**

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## REQUIRED DISTRIBUTIONS IF THERE IS EVEN JUST ONE NON-DESIGNATED BENEFICIARY

<u>Death Before RBD</u>	<u>Death After RBD</u>
FIVE YEARS	Remaining life expectancy of someone who is
<i>[No RMD until year #5]</i>	decedent's age at death <i>[Each year has an RMD]</i>

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## REQUIRED DISTRIBUTIONS IF THERE IS EVEN JUST ONE NON-DESIGNATED BENEFICIARY

<u>Death Before RBD</u>	<u>Death After RBD</u>
FIVE YEARS	Remaining life expectancy of someone who is decedent's age at death
	<b><i>Roth IRA: Just 5 years</i></b> <b><i>(instead of ten years or ghost)</i></b>

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## ACTIONS THAT CAN BE TAKEN BEFORE THE DETERMINATION DATE

- Disclaimers
- Full distribution of share
- Divide into separate accounts

For example, separate accounts when:

- one beneficiary is an EDB and another is not
- one beneficiary is a charity & can't pay by 9/30

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## MARRIED COUPLES: RETIREMENT ASSETS

**Surviving spouse has an option that no other beneficiary has:**

a rollover of deceased spouse's retirement assets to her or his own new IRA

(creditor protection, too!)

**Other beneficiaries cannot do a rollover.**

Main option: liquidate over ten years

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## LEAVE \$ IN DECEASED SPOUSES' ACCOUNT?

- Generally, a rollover produces greater income tax deferral than leaving assets in the decedent's account
- One situation when it may be advisable to leave some assets in the decedent's account (at least for a while)
  - Surviving spouse is under age 59 ½

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## LEAVE \$ IN DECEDENT'S ACCOUNT?

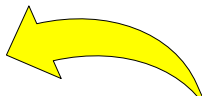
Required Distributions if the  
Surviving Spouse is the Sole Beneficiary

- Spouse is an EDB – more than ten-year payout
- Spouse can recalculate life expectancy
- IRAs only: Spouse can elect to treat IRA as her own
- Deceased spouse died before age 73 ?
  - No required distribution to the surviving spouse until year the deceased spouse would have been age 73
- NEW: Surviving spouse may elect to be treated as the deceased spouse for purposes of the RMD rules (2024)
- Smaller RMDs based on uniform lifetime table rather than just over a remaining single life expectancy.

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## REQUIRED MINIMUM DISTRIBUTIONS \*LIFETIME DISTRIBUTIONS\*

<u>Age of Account Owner</u>	<u>Required Payout</u>
<b>73</b>	<b>3.79%</b>
<b>75</b>	<b>4.07%</b>
<b>80</b>	<b>4.95%</b>
<b>85</b>	<b>6.25%</b>
<b>90</b>	<b>8.27%</b>
<b>95</b>	<b>11.24%</b>
<b>100</b>	<b>15.71%</b>



The surviving spouse can leave assets in the deceased spouse's IRA, and the RMDs are the same lower amounts as if the assets had been rolled over to the surviving spouse's own IRA.

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## TAX-SMART CHARITABLE GIVING, ESPECIALLY WITH RETIREMENT ASSETS

### The Community Foundation Tampa Bay Outstanding Speakers Series

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