THE Pension Digest

Published Since 1984 Collin W. Fritz and Associates, Ltd., *"The Pension Specialists"* October, 1993

IRA Distributions to Beneficiaries

In this article we will review the various factors a beneficiary should consider before making his or her elections to comply with the required minimum distribution rules for an IRA beneficiary.

The decision one person makes in a certain situation is not necessarily the decision another person should. There is not just one way to do things. In general, however, some elections should be avoided if possible because they could result in higher income taxes.

The following factors will need to be considered by a beneficiary in making his or her distribution election:

1. The age of the accountholder when he or she dies;

2. The age of the beneficiary and whether or not the beneficiary is a spouse or non-spouse;

3. The IRA account balance at time of accountholder's death;

4. The estimated IRA account balance at the time of the beneficiary's death;

5. If applicable, the RMD election which the accountholder had made (if accountholder was 70-1/2 or older);

6. The beneficiary's need for cash in the short run (one to two years) and in the long run (beyond two years);

7. The tax bracket which will apply to the distributions to be made to the beneficiary, or to the estate of the beneficiary, or to other ultimate beneficiaries;

8. The institution's policies on continuing to pay the interest rates which applied to the time deposits purchased by the decedent. (See the separate discussion on this subject at the end of this article.)

Distribution Situations When the Beneficiary is the Spouse

As most already know, a surviving spouse will usually elect to treat the deceased spouse's IRA as their own. This is especially true if the spouse beneficiary is over 59-1/2.

There will be times, however, when a spouse probably should elect not to treat the IRA as his or her own, or should at least wait in making this election.

Situation 1 will describe a beneficiary's election choices on a detailed point-by-point basis. Thereafter, for Situations 2 onward, the same general factors have been considered, but are described in a more simplified fashion.

Situation 1 (Ages 72/53)

The IRA accountholder, David Schubert, is age 72 and his spouse, Diane, is 53. David died in 1993. His account balance is $63,000.

Diane's election/choice is: Does she elect to treat the account as her own, or does she continue the schedule established by David?

What factors will influence Diane's decision as to which option she should select?

1. His age at death.

Because David was past his required beginning date, Diane must continue the schedule, speed it up or elect to treat his IRA as her own.

2. His RMD elections must be considered.

a. If David had chosen for his RMD elections to use the recalculation method, then by her choosing to continue the payouts on that schedule:

i. They will be made to Diane based on her single life expectancy factor, since he has died. This may not be desirable since she may not want as large a distribution as the revised schedule will give her.

ii. She does not have the right to designate an IRA beneficiary. Once she dies, any remaining balance must be paid to her estate no

Continued on page 2

Continued from page 1

Situation 1 (Ages 72/53)

The IRA accountholder, David Schubert, is age 72 and his spouse, Diane, is 53. David died in 1993. His account balance is $63,000.

Diane's election/choice is: Does she elect to treat the account as her own, or does she continue the schedule established by David?

What factors will influence Diane's decision as to which option she should select?

1. His age at death.

Because David was past his required beginning date, Diane must continue the schedule, speed it up or elect to treat his IRA as her own.

2. His RMD elections must be considered.

a. If David had chosen for his RMD elections to use the recalculation method, then by her choosing to continue the payouts on that schedule:

i. They will be made to Diane based on her single life expectancy factor, since he has died. This may not be desirable since she may not want as large a distribution as the revised schedule will give her.

ii. She does not have the right to designate an IRA beneficiary. Once she dies, any remaining balance must be paid to her estate no later than December 31 of the year after the year of her death. This also may be highly undesirable from an income tax standpoint if the remaining amount in the IRA is large enough that a higher marginal tax rate will apply.

b. If David for his RMD elections had chosen to use the non-recalculation method, then if the payouts continue on that schedule:

i. They will be made to Diane based on a continued non-recalculated joint life expectancy method; and ...

ii. She does not have the right to designate an IRA beneficiary. Once she dies, any remaining balance must be paid to her estate no later than December 31 of the year after the year of her death. This also may be highly undesirable from an income tax standpoint because a higher marginal tax rate may apply, as discussed previously under 2. a. ii.

3. The age of the beneficiary and her need for cash in the short run and the long run.

The spouse beneficiary who is not yet 59-1/2 should stay with the established schedule until she has met her cash needs. Thereafter, the spouse could elect to treat the IRA as her own.

4. Tax and designation-of-beneficiary considerations.

Diane might elect to treat his IRA as her own because that will stop the current distributions and current taxation. She would have the right to designate her own beneficiaries. She would not be required to commence distributions until the RMD (70-1/2) rules apply to her IRA.

Keep in mind that the beneficiary under most IRA plan agreements will have the right to determine who will ultimately receive the IRA funds, but it does make a difference from a tax standpoint if a beneficiary has been named under her own IRA, or under her estate/will.

Diane must be aware that once she elects to treat the IRA as her own, that any distribution she receives prior to age 59-1/2 would become subject to the 10% excise tax unless the disability or substantially equal periodic payment exception would apply.

Situation 2 (72/35)

Same as Situation 1, except Diane is age 35. Analysis would be the same. The main considerations would be: her desire to stop current taxation vs. her need for cash.

We understand the IRS' current position to be that she can initially continue the schedule, and then later elect to treat the IRA as her own.

Situation 3 (72/78)

Same as Situation 1, except Diane is age 78. She certainly would not want to continue a recalculation schedule – with unnecessarily rapid distribution – so she most likely would want to treat the IRA as her own. She would then need to commence distributions based upon her own elections and designation of beneficiary.

Situation 4 (72/72)

An IRA accountholder, Miguel Sanchez, is age 72 and his spouse, Maria, is also age 72. He has $600,000 in his IRA and she has $4,000 in hers. They both elected recalculation for their required minimum distributions. He died in 1993.

Maria's election/choice with respect to Miguel's IRA is: Does she elect to treat the account as her own, or does she continue the schedule established by Miguel?

Without doubt she should elect to treat his IRA as her own. Why? If she would continue his schedule (recalculation with only one life left), should she die, the entire balance ($600,000) would need to be completely distributed no later than December 31 of the year which follows the year of her death. Taxes would be very high and her beneficiaries may receive less than they otherwise could.

Should she now combine Miguel's IRA with her own? No, no and no. As a result of Miguel's death, her RMD calculation has also changed to a single life expectancy factor and a forced distribution would need to take place once she dies.

With respect to Miguel's IRA, she may set up a new IRA (sign a new IRA plan agreement) and designate new beneficiaries so that a joint life expectancy could be used.

From an income tax standpoint, it was best that Miguel died first. If Maria would have died first, then the recalculation schedule could not have been changed.

Situation 5 (70/70)

This IRA accountholder, Mary McCarthy, is age 70 and she will attain age 70-1/2 in 1993. Her account balance is $32,000. Her husband, Mark, is her beneficiary and he, too, attains age 70 and 70-1/2 in 1993. Mark has his own IRA with a balance of $29,000 and Mary is his sole beneficiary. It is October 1993 and neither spouse has yet made his or her elections nor have any distributions been made. Mary dies on Oct. 4, 1993.

Mark's election/choice is: Does he elect to treat Mary's account as his own or does he elect the five-year rule?

If he elects to treat her IRA as his own, what effect, if any, will it have on his RMD for 1993? It will not affect his RMD amount since it is based on his Dec. 31, 1992 Fair Market Value (FMV) balance. He is also not required to receive a distribution from her, although the conservative approach would be to have her "estimated" RMD paid to him.

If he elects the five-year rule, then he would not be required to receive a distribution from Mary's IRA until Dec. 31, 1998. In some situations this may be highly desirable. However, he does not have the right to designate a beneficiary unless he elects to treat it as his own. Because of the amount involved ($32,000), this five-year approach may not be wise because a lump-sum payment would need to be made to his estate once he dies if he had no designated beneficiaries.

Situation 6 (62/62)

The IRA accountholder, Linda Hewitt, is age 62 as is her designated beneficiary, her spouse, John. Linda died in 1993.

John's election/choice is: Does he elect to treat the account as his own, or does he elect the five-year rule, the life distribution rule or a combination thereof?

There does not appear to be any reason why the surviving spouse who is past 59-1/2 would not elect to treat the IRA as his own. He would almost certainly want the ability to designate his own beneficiaries.

Situation 7 (42/42)

Same as Situation 5, in this case the IRA accountholder, Linda Hewitt, is age 42 as is her designated beneficiary, her spouse, John. Linda died in 1993.

John's election/choice is: Does he elect to treat the account as his own, or does he elect the five-year rule, the life distribution rule or a combination thereof?

It will depend upon what his needs and desires are for a distribution within the next five years, and the degree of risk he is willing to assume should he die before he elects to treat the IRA as his own.

In this case, John is not yet age 59-1/2 so if he elects to treat the IRA as his own and then receives a distribution, it most likely will be subject to the 10% excise tax. John does not have the right to name a beneficiary under an

Continued on page 3

Continued from page 2

then receives a distribution, it most likely will be subject to the 10% excise tax. John does not have the right to name a beneficiary under an IRA until he elects to treat it as his own. Keep in mind that he can elect the five-year rule or the life distribution rule, and then elect to treat it as his own later.

Situation 8 (62/72)

The IRA accountholder, Mary Ewing, is age 62. Her spouse, Michael, is 73. Mary died in 1993. There is $8,000 in her IRA.

Michael's election/choice is: Does he elect to treat the account as his own or does he elect the five-year option, or in this case, the life distribution rule?

Because the account balance is not all that large, he should probably elect the life distribution rule rather than treat it as his own since, as a spouse beneficiary, he can defer distributions until the year Mary would have turned 70-1/2, regardless of the fact that he is in required minimum distribution with respect to his own IRAs.

If the account balance was large, he probably would not wish to risk the consequence of his death, which would require a total payout to his estate. When the account balance is large he will still want to treat it as his own. He may wish to establish an IRA separate from his existing ones, which probably had named his wife as beneficiary.

Situation 9 (64/revocable trust)

(Also see Situation 15.) The IRS, in a number of private letter rulings, has allowed a spouse who has unlimited powers as the trustee of the trust, and who is the primary beneficiary, to still elect to treat the decedent's IRA as his or her own.

Distribution Situations When a Nonspouse is Beneficiary

A nonspouse beneficiary does not have the right to elect to treat a decedent's IRA as his or her own. As an inherited IRA, distributions must be made at least as rapidly as required by law.

Situation 10 (73/43)

An IRA accountholder, Sue Massey, is age 73; she was born 4-10-20. Her designated beneficiary is her daughter, Cecilia, age 43, who was born 5-14-50. She dies in 1993 and her account balance is $38,000. She had been paid her RMD for 1993 prior to her death. She had elected nonrecalculation. The MDIB factor was used to calculate the 1993 RMD amount.

Since the IRA accountholder's death occurs after her required beginning date, Cecilia, as a nonspouse beneficiary, must continue or speed up the previously elected schedule. Since the required payment for 1993 was already made, she would not need to receive a distribution until 1994.

Note that the MDIB table was used to calculate the factor while the accountholder was alive, but the regular schedule is used to determine the schedule the nonspouse beneficiary must continue with.

The amount of the 1994 distribution could not be less than the amount using the following formula: Dec. 31, 1993 balance divided by life expectancy factor from regular table (not MDIB table).

How would you determine that factor? You continue the "regular" schedule as elected by the accountholder. For example:

Year	Ages	MDIB Factor	Reg. Factor
1990	70/40	26.2 use it	41.9 N/A
1991	71/41	25.3 use it	40.9 N/A
1992	72/42	24.4 use it	39.9 N/A
1993	73/43	23.5 use it	38.9 N/A
1994	0/44	N/A	37.9 use it
1995	0/45	N/A	36.9 use it
1996	0/46	N/A	etc. use it

Situation 11 (73/43)

Same factual situation as Situation 10 except the accountholder elected to use recalculation for herself and was required to use nonrecalculation for Cecilia. This required the use of the special six-step formula, but this schedule was overridden by the MDIB rules until her death.

Since the IRA accountholder's death occurs after her required beginning date, Sue, as a nonspouse beneficiary, must continue or speed up the previously elected schedule. Since the required payment for 1993 was already made, she would not need to receive a distribution until 1994.

Note that the MDIB table was used to calculate the factor while the accountholder was alive, but the regular schedule is used to determine what schedule the nonspouse beneficiary must continue.

The amount of the 1994 distribution could not be less than the amount using the following formula: Dec. 31, 1993 balance divided by life expectancy factor from regular table (not MDIB table).

How would you determine that factor? Again, you continue the "regular" schedule as elected by the accountholder. For example:

Year	Ages	MDIB Factor	Reg. Factor
1990	70/40	26.2 use it	41.9 N/A
1991	71/41	25.3 use it	40.9 N/A
1992	72/42	24.4 use it	39.9 N/A
1993	73/43	23.5 use it	38.9 N/A
1994	0/44	N/A	37.7 use it
1995	0/45	N/A	36.8 use it
1996	0/46	N/A	etc. use it

Situation 12 (75/an estate or revocable trust)

An IRA accountholder, Denise Stahl, is age 75. She had designated her revocable trust as her beneficiary and had elected to use nonrecalculation. She died in 1993 and she had not had her RMD amount paid to her in 1993.

The trust is the beneficiary. Payment will need to be made to the trust in 1993. The trustee of the trust will need to instruct the custodian/trustee how and when distributions would be made to the trust. Since Denise had elected nonrecalculation, the trust may continue to have the same distributions made to it which would have been made to her. A distribution must be made in 1993 for at least the RMD amount. The trust may have larger amounts paid to it.

If the estate had been the designated beneficiary, then it, too, could have the scheduled payments continued. However, many times an estate does not wish to stay "open" so it may wish to withdraw larger amounts.

If Denise had elected recalculation, then all of the funds would need to be distributed on or before Dec. 31, 1994, whether the beneficiary had been the estate or the revocable living trust.

Situation 13 (71/78)

An IRA accountholder, Linda Tice, is age 71. Her beneficiary is her sister, Laura. Linda dies in 1993. She had elected nonrecalculation.

Laura must continue (or speed up) the schedule which Linda had established (refer to the discussion of Situation 12 since it applies here as well even though Laura is herself 78).

Situation 14 (64/42)

An IRA accountholder, Joshua Running, is age 64. He has not yet commenced distributions. He has three children as his primary beneficiaries, each to receive one-third share. Their respective ages are 38 (Ann), 39 (Mark) and 42 (Angie). He dies in 1993 when his account balance is $44,000. On Dec. 31, 1993,

Continued on page 4

Must CDs Be Surrendered When Spouse Treats Decedent's IRA as Their Own?

Many institutions adopt the procedure that the election to treat an IRA as one's own requires that existing time deposits be surrendered and new time deposits be purchased. With the current interest environment this means that the bank requires the spouse beneficiary to take the lower current interest rate rather than being able to keep the higher interest rates.

What authority is there for this approach?

The banking regulation governing deposits does not expressly address the subject of what is to be done with a time deposit or other account once the individual dies.

The general laws regarding transfer of assets upon death will apply if the account is not an IRA. These are the testate and intestate laws.

The IRA rules govern the transfer of IRA assets upon the death of the IRA accountholder. Remember that the IRA time deposit is owned as follows, "First Western Bank as IRA custodian for Joe Smith."

Once Joe Smith dies, the IRA time deposit is owned, "First Western Bank as IRA custodian for Sally Smith as beneficiary of Joe Smith."

The right of a surviving spouse to elect to treat the deceased spouse's IRA as his or her own arises from IRA regulation 1.408-2. A basic question: Is there a requirement to sign new plan agreement forms to elect to treat an inherited IRA as one's own? For a financial institution, it is preferable from an administrative viewpoint to do this, but it would be hard to show that this is required by the I.R. Code.

It seems very probable that financial institutions require the surrender of the existing time deposits because it simplifies the institution's job from a data processing standpoint. Legally, this time deposit does belong to the spouse beneficiary. However, until he or she makes the election to treat it as his or her own, the account is an inherited account. But as noted above, the regulation does seem to allow the beneficiary to treat the decedent's IRA as his or her own without signing new forms.

Is the bank justified in requiring a surrender of the old time deposits if the spouse elects to treat the IRA as his or her own? If the institution adopts this approach, might it face legal claims?

We cannot give a definite answer to this question. We do, however, have concerns about taking the position that the higher paying time deposits must be surrendered. There is very little authority to support the institution's position if this is done.

The following situation could easily arise: Joe Smith had $95,000 in his IRA when he died at age 67 in 1993. Three time deposits ($50,000, $30,000 and $15,000) comprise the IRA. They will mature in 1995 (8%), 1996 (7.4%) and 1997 (5.2%), respectively. The current rate is 3.5%. The bank tells spouse beneficiary Sally that she must give up the higher rates if she wishes to treat his IRA as her own.

Because of the institution's "rules," Sally does not elect to treat it as her own and she dies in January of 1994. The $95,000-plus will need to be paid in lump sum to her estate since she did not have the ability to designate her own beneficiaries. The result is that substantially more taxes will be paid than would have been the case if the institution had allowed her to elect to treat the IRA as her own, while maintaining the same interest rates, and designating beneficiaries to allow for scheduled payments rather than the lump sum. PD

Continued from page 3

Let's assume in this situation that all three children elect the life distribution rule. Their respective calculations for 1994 would be: their Dec. 31, 1993 FMV/40.6 (factor based on the age of the oldest beneficiary – 42). The respective calculations for 1995 would be: their Dec. 31, 1994 balance/39.6.

Note that the factor for each beneficiary is based on the age of the oldest beneficiary. That is, each beneficiary does not use his or her own age to determine the factor. As nonspouse beneficiaries, the method used to redetermine the life expectancy factor for subsequent years is nonrecalculation.

Situation 15 (64/an estate or revocable trust)

An IRA accountholder, David Burns, is age 64 and has an account balance of $500,000. He dies in 1993, before his Required Beginning Date (RBD) for IRA distributions.

One distribution option open to the nonspouse beneficiary is the five-year-payout rule, in which all IRA funds would (in this case) be distributed by Dec. 31, 1998. However, also available may be the Life Distribution Rule, in which the account balance could be distributed over the life expectancy of the trust's beneficiary. This is possible if certain conditions are met. D-6 of Proposed Regulation 1.401(a)(9)-1 is the controlling authority. Briefly, D-6 authorizes use of the Life Distribution Rule when a trust has been named the IRA beneficiary IF the requirements of D-5 (preceding it) are satisfied AS OF THE DATE OF THE ACCOUNTHOLDER'S DEATH. The emphasis is ours, because this is a very key clause.

The requirements are:

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

(2) The trust is irrevocable.

(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 D-2)

(4) A copy of the trust instrument is provided to the plan.

(Under (4) a trust may be named as beneficiary, but an individual must be the true ultimate beneficiary, and so designated by the trust.)

Condition 2 above is the point on which the Life Distribution Rule option hinges. Upon death, the formerly revocable trust has now become irrevocable. Therefore, this condition IS met. Therefore the life distribution rule can be utilized. The trust does not have to be irrevocable before the accountholder's death, but only so upon his or her death.

So, in general, when an IRA accountholder who has named a revocable trust as their beneficiary dies before his or her Required Beginning Date, carefully examine the availability of a life distribution payout option.

Situation 16 (38/8)

An IRA accountholder, Tom Davis, is age 38. He has designated his only son, Ben, age 8, as his sole beneficiary. Tom dies in 1993 when his account balance is $74,000.

His son Ben must commence distributions as would any other beneficiary. However, because of his age, you will need to refer to your state law regarding distributions. It would seem that a guardian will need to be appointed on his behalf. One of the assets which will need to be handled by the guardian will be the inherited IRA.

The court order should indicate that the guardian has the authority to make the election on behalf of Ben. Either the five-year option or the life distribution option could be elected. PD

The Pension Digest EXTRA

A supplement to your monthly pension newsletter

Annuities and Prohibited Transactions Revisited

As expected, many *Pension Digest* readers called our consulting service regarding the IRA/annuity article published in September. We published it because we DO believe that a prohibited transaction (PT) occurs when an IRA custodian receives a commission for selling an annuity to an IRA account for which it is the custodian/trustee, and thereby converts time deposit dollars to annuity dollars.

The purpose of this follow-up article is to discuss your possible courses of action at this time, depending upon your institution's position.

Some readers contend that we have simply erred in our interpretation. We do not feel that we have erred in this situation. For those who ›el this way, we will gladly review any written authority describing why such annuity transactions would not be prohibited transactions.

Some have responded, "a lot of people are doing this, so it must be right". This fact alone does not convince us . The same comments were made when it was in vogue to give premiums for the establishment of IRA accounts along with other bank accounts, and when IRAs were included in joint marketing programs.

When asked whether these activities/ transactions were prohibited transactions, the Department of Labor initially ruled that they were. Since then, a limited PT class exemption has been issued with respect to the joint marketing programs and premiums.

What procedures should have been followed by an institution in deciding to sell annuities to IRAs?

The best approach is always to obtain a prior ruling from the Department of Labor that the proposed transaction(s) would not constitute a prohibited transaction. If you have received such a letter, you should have no ›roblems as long as your program is being .nanaged as presented to the DOL. (If any readers have received such a letter, we would appreciate being sent a copy for review.)

The next best approach is that your institution's attorney or law firm researched this issue and reached the conclusion that a prohibited transaction would not occur with respect to each type of transaction anticipated.

We hope the situation does NOT exist, but which may in some situations, is that this issue was not researched at all before the decision was made to sell annuities to IRA accounts.

One thing which management must always remember is that IRAs are "unique", and special analysis must be given to these products/services when making business decisions. In all probability, some institutions considered the question of selling annuities and did not distinguish between: (1) the ability to sell annuities to general banking customers and, (2) the ability to sell annuities to existing IRA accounts/accountholders.

Do We Oppose IRA Annuity Sales?

Our writing of this article does not mean we do not feel a bank should have the right to sell annuities to its IRA accountholders. We just do not believe the rules as structured allow an IRA custodian/trustee to do this in many situations. Our position is to assist financial institutions with IRA compliance issues, and we must therefore express our opinions honestly.

What should be done now?

1. We would certainly be willing to assist by submitting a ruling request to the DOL on behalf of an individual financial institution. We would prefer doing this filing for an institution which is proposing to do it, vs. an institution which has already been converting IRA deposits to annuities. To this point, we have never received such a written request from a financial institution on this annuity subject.

2. We would strongly suggest that one of the state banking associations or the ABA consider this issue, and decide if they wish to request a class exemption ruling from the Department of Labor.

3. For those institutions that have not yet started selling annuities to their IRA accounts, we would suggest you go slowly (i.e. not start to sell) until there is a definite ruling or determination on this issue.

4. For those institutions that have been selling annuities to your IRA accounts, you will need to decide whether to discontinue selling to your IRA accounts until a determination has been made, or whether you will continue business as usual. We would not recommend the "business as usual" approach.

Two Situations Not Discussed in September Article

Situation #1 – Tina Rivers has been a longtime banking customer. She has never maintained an IRA with your institution. She instructs you that she wishes to make a "regular" IRA contribution for 1993 in the amount of $2,000.

Your institution's personnel shows or discloses to her the interest rates which your institution would pay for various time deposits and she is also shown the earnings rates which an insurance company would pay. She elects to purchase the annuity. As an agent, the institution or its affiliate will receive a commission.

Is this a prohibited transaction?

No. At this time the institution is not in a fiduciary relationship with Tina. The receipt of the commission from the insurance company would not be a prohibited transaction. Note that in this situation that the IRA annuity is established with the insurance company. In general, the insurance company is going to have the same administrative requirements that are imposed upon a custodian/trustee.

Situation #2 – Same situation as Situation #1 except that Tina presently does have an IRA for which you are the IRA custodian/ trustee. Her current account balance is $26,487.

Does the fact that there is a fiduciary relationship change the answer? The money which would be invested – and for which a commission would be paid – is money not presently in the institution. The conservative answer is that it does not make a difference. The fiduciary relationship still exists, and a PT would probably be the result. PD

Another Revocable IRA Trust Beneficiary Variation

In our accompanying story entitled "IRA Distributions to Beneficiaries", we have discussed many situations in which the elections of IRA accountholders affect the distribution options of their beneficiaries, and the choices to be made by these beneficiaries.

The situation we will describe here is similar to Situation 15 in that article, but merits further elaboration. Here are the case facts:

An IRA accountholder age 70-1/2 has five IRAs with a total account balance slightly in excess of $400,000. Although he is 70-1/2, he has not yet reached his required beginning date of April 1. He learns that he has 12 to 18 months to live, and decides to set up a revocable trust as his beneficiary, in order to provide for his wife's needs. Upon his death, he presumed the payout schedule would be over his life expectancy, which would be 16 years for a 70-year old.

But the accountholder dies unexpectedly in March, just short of his required beginning date. His elections had been duly made, but no distributions have been taken.

His spouse, the beneficiary of the trust set up by him, discovers that the governing provisions of the Internal Revenue Code do not allow her to use the 16-year payout based on his life expectancy.

Why? Even though the statute itself is not this specific, rules set forth by the IRS for such situations specify that if an accountholder chooses a revocable trust as his or her beneficiary, and **dies before the required beginning date**, a distribution based on the deceased accountholder's life expectancy is not possible. This may seem a punitive technicality when the accountholder has, in fact, reached 70-1/2. But this has been the IRS interpretation.

What, then, are her options? The governing provisions of the Code allow a five-year payout. But in **most** cases this would be undesirable from a tax standpoint because it would result in higher annual distributions, and higher taxation thereon.

What other options are available? As in Situation #15, the provisions of the Life Distribution Rule come into play here as well. (See Situation #15, Revised October *Pension Digest*, page 4, for the itemized list of requirements that must be met to enable use of the Life Distribution Rule.) This would allow the account balance to be distributed over **the life expectancy of the trust's beneficiary**, which is the spouse.

What Other Options?

There is an additional option. She was the sole beneficiary of the trust. No other offspring or other individuals were named to share it with her. She was also the trustee of the trust. Due to these facts, and if we are to go by the precedent of other recent IRS private letter rulings, she would be allowed to treat the IRA as her own. She could therefore base distributions on her own life expectancy, rather than the five-year payout. If she is not yet 70-1/2, no distribution would have to be taken at this time.

Had there been others named to receive some of the IRA assets, or had someone other than the spouse been named as trustee, the treat-as-own option would not have been available. She would have had to receive her share of the assets over the unfavorably short period of five years, or begin distributions based on her life expectancy. PD

'Conference Classic IV': Pension Conference Set for July 31-Aug. 3, 1994

Collin W. Fritz and Associates has built a strong reputation in retirement plan training with our IRA, qualified plan, SEP and 401(k) programs throughout the nation.

But in order to help satisfy the demand for more comprehensive, in-depth training in a condensed time period, we have annually since 1991 held a three-day conference composed of many specialized pension training topics. Attendees are able to pick from segments that will be most meaningful to them and their institution.

To help pension professionals plan ahead and budget for 1994's training, we are therefore confirming the dates for our Conference Classic IV, which will run from Sunday, July 31 through Wednesday, Aug. 3, 1994. Our Classic brochure with all details and agenda items is expected to be available soon. But in order to allow you maximum planning time, we would like you to be aware of both program and lodging costs.

Program tuition is an exceptionally reasonable $375 ($450 for reservations received after June 15). Additional attendees from your institution pay only $300.

Lodging fee is payable to Madden's Resort, which – as past attendees will confirm – is truly Minnesota's most complete resort and conference center.

• $370 double occupancy (shared room), includes lodging, all meals, full recreation package, gratuity, etc.

• $555 single occupancy (single room), including same as above.

Travel – Those who travel by air to attend may fly directly into Brainerd/Crow Wing County Regional Airport. Or, if you wish to experience some of the Twin Cities' unique offerings – including the Mall of America, etc. – you can choose to travel by car the remaining two hours to Brainerd.

If you book flights well in advance, you can save substantially on airfare. But perhaps more significantly, if you book a flight that includes a Saturday (in this case Saturday, July 30), you may save as much as 50% on airfare. This will offset many times over the cost of one additional night's lodging at Madden's – or your choice of accommodations in our area. We have experienced travel professionals on-staff to help you with your travel plans, whatever they may be.

The Brainerd Lakes Area where we are located offers so much that is unique that you will appreciate every moment spent here in addition to the exceptional training afforded by our Conference Classic IV.

For more information, call 1-800-346-3961. PD