



THE Pension Digest

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**Collin W. Fritz and
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“The Pension Specialists”



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New SIMPLE-IRA Rollover and Transfer Rules

The tax laws for rolling over or transferring funds into a SIMPLE-IRA changed as of December 18, 2015. A person who is a SIMPLE-IRA participant, whose employer first made a SIMPLE-IRA contribution more than 2 years ago and who is eligible for a 401(k) distribution is now authorized to take a distribution from the 401(k) plan and directly rollover or rollover such funds into the SIMPLE-IRA.

The tax rules now also authorize an individual to take a distribution from his or her traditional IRA or SEP-IRA and to transfer or rollover such funds into his or her SIMPLE-IRA. The individual must have met the 2 year rule applying to the SIMPLE-IRA plan. Presently you may have some customers who have both a traditional IRA and a SIMPLE-IRA because the tax laws required this prior to December 18, 2015. No longer, if the individual has met the two year rule, then the traditional IRA funds may be merged into the SIMPLE-IRA.

This law change means an IRA custodian should be using updated rollover, transfer, and SIMPLE-IRA plan agreement forms. SIMPLE-IRA amendments should be furnished.

We expect (and hope) the IRS will soon be revising its model SIMPLE-IRA Forms (5305-S and 5305-SA) as these forms expressly provide that it is impermissible to contribute funds to a SIMPLE-IRA arising from a traditional IRA or a 401(k) plan. Until then, an amendment should be added to such forms authorizing such

rollover, direct rollover and transfer contributions.

See page 7 as the IRS has revised its IRA Rollover Chart showing the new rollovers applying to SIMPLE-IRAs.

Understanding Why It Is Critical For an Inheriting IRA Beneficiary To Designate His or Her Own IRA Beneficiary

The purpose of this article is to illustrate the importance of an inheriting IRA beneficiary to designate his or her IRA beneficiary (ies) .

There is work involved in administering inherited IRAs and due to the complexities of the rules applying to inherited IRAs there is also the chance for tax mistakes.

For discussion and illustration purposes the following tax situation is assumed. Mary Johnson had had a very successful corporate career. In 2012 when she was age 57 she had retired. She had accumulated \$1,450,000 in her 401(k) plan. She had directly rolled over this \$1,450,000 into three traditional IRAs - \$300,000 with

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Deadlines for 2015 5498 Forms

Type of Account	Type of Form	Due to Owner	Due to IRS
Traditional	5498	5/31/16	5/31/16
Roth	5498	5/31/16	5/31/16
HSA	5498-SA	5/31/16	5/31/16
CESA	5498-ESA	5/2/16	5/31/16

Final Review 2015 Form 5498

2015 ☐ VOID ☐ CORRECTED

TRUSTEE'S or ISSUER'S name, street address, city or town, state or province, country, and ZIP or foreign postal code		1 IRA contributions (other than amounts in boxes 2-4, 8-10, 13a, and 14a)	OMB No. 1545-0747 2015 Form 5498		IRA Contribution Information Copy A For Internal Revenue Service Center File with Form 1096. For Privacy Act and Paperwork Reduction Act Notice, see the 2015 General Instructions for Certain Information Returns.
		2 Rollover contributions			
3 Roth IRA conversion amount	4 Recharacterized contributions				
5 Fair market value of account	6 Life insurance cost included in box 1				
7 IRA <input type="checkbox"/> SEP <input type="checkbox"/> SIMPLE <input type="checkbox"/> Roth IRA <input type="checkbox"/>	8 SEP contributions	9 SIMPLE contributions			
10 Roth IRA contributions	11 Check if RMD for 2016 <input type="checkbox"/>				
TRUSTEE'S or ISSUER'S federal identification no.	PARTICIPANT'S social security number	12a RMD date	12b RMD amount		
PARTICIPANT'S name	Street address (including apt. no.)	13a Postponed contribution	13b Year	13c Code	
City or town, state or province, country, and ZIP or foreign postal code	14a Repayments	14b Code			
Account number (see instructions)	15a FMV of certain specified assets	15b Code(s)			

Form **5498** Cat. No. 50010C www.irs.gov/form5498 Department of the Treasury - Internal Revenue Service

- On the bottom left there is an "Account Number" box. The IRA custodian is required to insert an account number in this box when filing more than one Form 5498 for the same person. If your institution wants to earn some bonus points with the IRS, you will complete this box even though it is not required. A unique number should be used. Using such a number helps the IRS to process corrected information accurately. The account number may be a checking or savings account number or some other unique number with respect to an individual. The number must not appear anywhere else on the form (i.e. it cannot be the social security number).
- In Box 7 only one of the 4 boxes must be checked to indicate the type of IRA. A person who has a traditional IRA, SEP IRA and Roth IRA would need to be furnished three 5498 forms and the IRS would need to be furnished three forms.

- Box 1. IRA Contributions (other than amounts in boxes 2-4, 8-10, 13a and 14a). Enter the amount of the annual contributions made on or after January 1, 2015 through April 18, 2016 as designated for 2015. The IRA custodian is to report the gross amount of the annual contributions even if such contributions are excess contributions, or will be later recharacterized. These are still to be reported. A traditional IRA contribution, which is not properly reported in one of the other traditional IRA boxes as discussed below, is to be reported in box 1. For example, if a person tries to roll over \$28,000, but does so on day 70 and the IRA custodian learns of this fact prior to filing the current year's Form 5498, then the IRA custodian must report this \$28,000 in box 1. This same procedure would apply if somehow non-IRA funds had been mistakenly transferred into an IRA.

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Form 5498,
Continued from page 2

4. **Box 2. Rollover Contributions.** Enter the amount of the rollover contributions made on or after January 1, 2015 through December 31, 2015. Made means received by the traditional IRA custodian.

A rollover may either be an indirect rollover or a direct rollover.

A direct rollover occurs when an employer plan issues the check to the IRA custodian on behalf of the individual. By definition, a direct rollover cannot occur between IRAs. Employer plan means a qualified plan, section 403(b) plan or a governmental section 457(b) plan. The funds attributable to a nonspouse beneficiary of such plans are eligible to be directly rollover to an inherited IRA and would be reported in Box 2.

An indirect rollover means the paying plan (could be an IRA or an employer plan) issues the distribution check to the individual who then makes a rollover contribution by the 60 day deadline. A 60 day indirect rollover may occur between two traditional IRAs, two SEP-IRAs, or between a traditional IRA and a SEP-IRA or vice versa.

Remember that nonspouse IRA beneficiaries are ineligible to roll over a distribution from one inherited IRA and redeposit it into another inherited IRA.

5. **Box 3. Roth IRA Conversion Amount.** This box will be completed when a conversion contribution is made to a Roth IRA.
6. **Box 4. Recharacterized Contributions.** The IRS instructions are very brief, "Enter any amounts recharacterized plus earnings from one type of IRA to another." If a person had made either an annual contribution or a conversion contribution to a Roth IRA in either 2014 and/or 2015, he or she may elect to recharacterize it as adjusted by earnings or losses to be traditional IRA contribution in 2015. The total amount recharacterized is to be reported in box 4. Although the IRS instructions use the term, "plus earnings", the IRS should use the term, "plus or minus earnings or losses."

7. **Box 5. Fair Market Value of Account.** The IRS instructions for this box are also very brief, "Enter the FMV of the account on December 31."

The IRS added a caution to self-directed and trust IRAs as follows: "Trustees and custodians are responsible for ensuring that all IRA assets (including those not traded on established markets or with otherwise readily determinable market value) are valued annually at their fair market value."

The instruction to report the FMV as of December 31 applies whether there is a living IRA accountholder or an inheriting IRA beneficiary.

If the IRA accountholder or inheriting beneficiary is alive as of December 31, the individual closed his or her IRA during the year by taking a total distribution and he or she made no "reportable contribution", then the IRA custodian is not required to prepare and file the Form 5498.

However, if the IRA accountholder or inheriting beneficiary died during the year, the IRA custodian will need to prepare a final Form 5498 for the deceased IRA accountholder or inheriting beneficiary as discussed below.

With respect to a deceased accountholder or a deceased inheriting IRA beneficiary, the IRS gives the IRA custodian two options. Option #1 - report the FMV as of the date of death. Option #2 - report the FMV as of the end of the year in which the decedent died. This alternate value will usually be zero because the IRA custodian will be reporting the end of year value on the Form 5498's for the beneficiary or beneficiaries. If Option #2 is used, the IRA custodian must inform the executor or administrator of the decedent's estate of his or her right to ask for the FMV as of the date of death.

If the IRA custodian does not learn of the individual's death until after the filing deadline for the Form 5498 (i.e May 31), then it is not required to prepare a corrected Form 5498. However, an IRA custodian must still furnish the FMV as of the date of death if requested to do so.

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Form 5498,
Continued from page 3

8. **Box 6. Life Insurance cost included in box 1.** An IRA custodian will normally leave this box blank or will insert a 0.00 since it is only to be completed if there was a contribution to an IRA endowment contract as sold by an insurance company a long time ago.
9. **Box 8. SEP Contributions.** Any SEP contributions made to the IRA custodian during 2015 are to be reported in box 8. Such contributions could have been for 2014 or 2015. Contributions made in 2016 for 2015 are to be reported on the 2016 Form 5498.
10. **Box 9. SIMPLE Contributions.** Any SIMPLE-IRA contributions made during 2015 are to be reported in box 9. Such contribution could have been for 2014 or 2015.
11. **Box 10. Roth IRA Contributions.** Any Roth IRA contributions for 2015 are to be reported in box 10 as long as made between January 1, 2015 and April 18, 2016.
12. **Box 11. Check if RMD for 2016.** An IRA custodian is required to check this box if the IRA accountholder attains or would attain age 70½ or older during 2016. The instructions do not discuss whether or not this box is to be checked for an inheriting traditional IRA beneficiary. It should not be checked for an inherited IRA. Completing this box is necessary only if the IRA custodian is required to prepare a 2015 Form 5498 for a person. This box is not checked with respect to an individual who died during 2015 and who would have attained age 70½ or older during 2016 had he or she lived.
13. **Boxes 12a (RMD date) and 12b (RMD Amount).** An IRA custodian's use of these two boxes is optional, it is not mandatory.

Under current IRS procedures, the IRS does not require the traditional IRA custodian to furnish it with the RMD amount. The law is unsettled whether or not the IRS has the legal authority to require that an IRA custodian furnish the RMD amount. Since the IRS would like to be furnished this information, the IRS has added boxes 12a and 12b to the Form 5498.

The approach adopted by the IRS is that a traditional IRA custodian by completing boxes 11, 12a and 12b on the Form 5498 and furnishing it to the IRA accountholder will meet the requirement that it must furnish a RMD Notice by January 31. The IRS instructions do permit the IRA custodian to furnish a separate Form 5498 with the only information being furnished is the information for boxes 11, 12a and 12b.

14. **Box 13a. Postponed contribution(s).** Since we are discussing completing the Form 5498 for a traditional IRA, we will discuss what needs to be done for postponed contributions to a traditional IRA. The individual will instruct you on an IRA contribution form the "prior" year or years for which he or she is making the postponed contribution(s). The individual must designate the IRA contribution for a prior year to claim it as a deduction on the income tax year.

Postponed contributions may be made by individuals who have served in a combat zone or hazardous duty area or individuals who are "affected taxpayers" due to federally designated disasters.

If the IRA custodian will report the contribution made after April 15 and the individual designates a contribution for a prior year, then the IRA custodian must prepare either (1) a Form 5498 for the year for which the contribution was made or (2) on a Form 5498 for a subsequent year.

Under approach #1, the IRA custodian may choose to report the contribution for the year it is made. For example, if an individual in September of 2015 designated a contribution of \$5,000 to a traditional IRA for 2013. The IRA custodian could choose to prepare a 2013 Form 5498 and report the \$5,000 contribution in box 1. If the IRA custodian had not prepared a 2013 Form 5498 for this individual, the IRA custodian then would prepare an original 2013 Form 5498. If the IRA custodian had previously prepared a 2013 Form 5498 for this individual, the IRA custodian then would prepare a "corrected" 2013 Form 5498.

Under approach #2, if the the IRA custodian is furnished a contribution after April 15, the IRA custodian may choose to report it on that year's Form 5498. The amount of the contribution must be reported in box 13a and the year for which the contribution was made in box 13b and in box 13c the applicable code as follows:

a. Use "EO13239" for Afghanistan and those countries in direct support, including Djibouti, Jordan, Kyrgyzstan, Pakistan, Somalia, Syria, Tajikistan, Uzbekistan, Yemen, and the Philippines.

b. Use "EO12744" for the Arabian Peninsula, including air space and adjacent waters (the Persian Gulf, the Red Sea, the Gulf of Oman, the Gulf of Aden, the portion of the Arabian Sea that lies north of 10 degrees north latitude and west of 68 degrees east longitude, and the total land areas of Iraq, Kuwait, Saudi Arabia, Oman, Bahrain, Qatar, the United Arab Emirates), and Jordan which is in direct support of the Arabian Peninsula.

c. Use "EO13119" or Public Law 106-21 "PL106-21" for the Federal Republic of Yugoslavia (Serbia and Montenegro), Albania, Kosovo, the Adriatic Sea, and the Ionian Sea north of the 39th parallel.

Definition. An individual who is serving in or in support of the Armed Forces in a designated combat zone or qualified hazardous duty area has an additional period after the normal contribution due date of April 15 to make IRA contributions for the prior year. The period of time is the time the individual was in the designated zone or area plus at least 180 days.

15. **Box 14a. Repayments.** A traditional IRA account holder who has taken a distribution under special disaster rules or who has taken a qualified reservist distribution is eligible to repay the distribution even though such repayment does not qualify as a rollover. Enter the amount of the repayment(s).

Box 14b. Code. Enter the applicable code for the type repayment(s):

QR - repayment to a qualified reservist

DD - repayment of a federally designated disaster distribution.

Note that repayments only have one reporting procedure whereas postponed contributions have two reporting procedures.

16. **Box 15a. FMV of certain specified assets.** Completion of Boxes 15a and 15b are mandatory for 2015. If you are an IRA custodian or trustee with IRA assets of which the fair market values are not readily determinable, you should review the August 2013 newsletter.

17. **Duty To Prepare/Furnish Corrected Form 5498.** An IRA custodian is required to prepare a corrected form 5498 as soon as possible after it learns there is an error on the original form as filed. The IRS furnishes the following example. "If you reported as rollover contributions in box 2, and you later discover that part of the contribution was not eligible to be rolled over and was, therefore, a regular contribution that should have been reported in box 1 (even if the amount exceeds the regular contribution limit), you must file a corrected Form 5498."

**Beneficiary,
Continued from page 1**

ABC State Bank, \$750,000 with Thrive National Bank and \$400,000 with First National Bank. With each IRA custodian she had designated her three children, John, Roberta and Patricia each to receive a 1/3 share. John was age 33 in 2012, Roberta was age 31 and Patricia was age 26. Mary was divorced from Paul Johnson in 1998. All are residents of the state of Minnesota. Mary died on October 20, 2014.

Each child had three inherited IRAs with the three different IRA custodians.

In November of 2014, the IRA representative for ABC State Bank contacted John, Roberta and Patricia regarding taking required distributions from their inherited IRAs and designating their own beneficiary(ies). Each instructed they would be using the life distribution rule and each designated his or her own beneficiary(ies). John and Roberta were married and had children. John designate his spouse as his primary beneficiary and his children as

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Beneficiary,
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the contingent beneficiaries. Roberta also designated her spouse as her primary beneficiary and her children as the contingent beneficiaries. Both thought these funds would either be used for the kids' college education expenses since the 10% additional tax does not apply to a beneficiary or for their retirement.

Patricia was also contacted. She was not married and she had no children. On December 20, 2013, she designated her boyfriend, Alberto Davis, to be her beneficiary of IRA #1 with a balance of \$100,000.

With respect to the inherited IRAs at Thrive National Bank and First National Bank, John, Roberta and Patricia did not initially designate "new" beneficiaries.

Patricia died in a car accident on February 3, 2015. She died intestate as she did not have a will. With respect to the \$100,000 with ABC State Bank, Patricia had designated Alberto to be her beneficiary. He will be able to continue the required distribution schedule which applied to Patricia as the first beneficiary. Alberto may take larger distributions.

With respect to Patricia's inherited IRAs at Thrive National Bank and First National Bank the situation is much more complicated since Patricia did not designate her own beneficiary.

What happens with her \$300,000 inherited IRA at Thrive National Bank and her \$100,000 inherited IRA at First National Bank?

Does this money go to Alberto or does it go to Roberta (sister) and John (brother)? Or, does it go to Patricia's surviving parent, Paul Johnson. The Minnesota intestacy law would provide that a certain percentage would go her dad, Paul Johnson.

What if Roberta and John want the funds to go Alberto? What if Paul Johnson wants the funds to go to Alberto?

Remember, IRAs are created under our federal income tax laws and there are severe tax penalties associated with failing to comply with these tax laws. The money within an inherited IRA is generally tax-deferred money. An IRA beneficiary will need to include any distribution in his or her income when it is withdrawn. In general, a person who is an inheriting IRA beneficiary has no right to say "I would rather have someone else get these funds so that he or she pays the appropriate income tax rather than me."

The provisions of the IRA plan agreements with Thrive

National Bank and First National Bank must be reviewed and applied. Most IRA plan agreement forms are written to provide that since Patricia survived her mother, she inherited the \$300,000 and the \$100,000 and upon her death her funds will go her beneficiary as designated or to her estate, if she had not designated a beneficiary. Although unlikely, some IRA plans may set forth a different transfer of Patricia's share.

It may well be that the individuals involved do not want Patricia's estate to be the beneficiary. In the above situation, John Roberta, and Paul may well want the funds to go to Alberto. We at CWF suggest that the IRA custodian wants to be furnished a legal/tax opinion by an attorney or tax accountant as to why the funds may go into Alberto's inherited IRA rather than the estate's inherited IRA. It may be the estate would have the right or authority to pass-through its right to receive future distributions to Alberto.

It might be possible that the Thrive National Bank IRA plan agreement provided that in the situation where an inheriting IRA beneficiary dies after the IRA grantor dies that such share will be split by the other primary beneficiaries.

And it might be possible that the First National Bank IRA plan agreement provided that in the situation where an inheriting IRA beneficiary dies after the IRA grantor dies that such share will go to his or her estate, and such estate has the right to pass-through to one of its beneficiaries or a person to be chosen by the personal representative the right to receive the future IRA RMD distributions.

The law provides a 50% excise tax when a beneficiary does not comply with the required distribution rules and there is an excess accumulation due to not withdrawing the required amount.

It is not that surprising, but the IRS has not yet issued any written guidance as to the adverse tax consequences arising when an inherited IRA is set up for person who does not qualify to have an inherited IRA. One would think the annual 6% excess contribution tax would apply. In some cases, it may be the IRS would assess both taxes.

In order to avoid difficult IRA beneficiary situations as described above, an inheriting beneficiary wants to designate his or her own beneficiary(ies) as soon as possible.

IRS Revises Rollover Chart

Table 1-4. Rollover Chart

The following chart indicates the rollovers that are permitted between various types of plans.

		Roll To							
		Roth IRA	Traditional IRA	SIMPLE IRA	SEP IRA	Governmental 457(b) Plan	Qualified Plan ¹ (pre-tax)	403(b) Plan (pre-tax)	Designated Roth Account (401(k), 403(b) or 457(b))
Roll From	Roth IRA	Yes ²	No	No	No	No	No	No	No
	Traditional IRA	Yes ³	Yes ²	Yes ^{2,7} , after 2 years	Yes ²	Yes ⁴	Yes	Yes	No
	SIMPLE IRA	Yes ³ , after 2 years	Yes ² , after 2 years	Yes ²	Yes ² , after 2 years	Yes ⁴ , after 2 years	Yes, after 2 years	Yes, after 2 years	No
	SEP IRA	Yes ³	Yes ²	Yes ^{2,7} , after 2 years	Yes ²	Yes ⁴	Yes	Yes	No
	Governmental 457(b) Plan	Yes ³	Yes	Yes ⁷ , after 2 years	Yes	Yes	Yes	Yes	Yes, ^{3,5}
	Qualified Plan ¹ (pre-tax)	Yes ³	Yes	Yes ⁷ , after 2 years	Yes	Yes ⁴	Yes	Yes	Yes, ^{3,5}
	403(b) Plan (pre-tax)	Yes ³	Yes	Yes ⁷ , after 2 years	Yes	Yes ⁴	Yes	Yes	Yes, ^{3,5}
	Designated Roth Account (401(k), 403(b) or 457(b))	Yes	No	No	No	No	No	No	Yes ⁶

¹Qualified plans include, for example, profit-sharing, 401(k), money purchase, and defined benefit plans.

²Only one rollover in any 12-month period.

³Must include in income.

⁴Must have separate accounts.

⁵Must be an in-plan rollover.

⁶Any nontaxable amounts distributed must be rolled over by direct trustee-to-trustee transfer.

⁷Applies to rollover contributions after December 18, 2015. For more information regarding retirement plans and rollovers, visit [Tax Information for Retirement Plans](#).

The IRS rollover chart provides the following guidance:

1. Roth IRA funds are only eligible to be rolled over to another Roth IRA. They are ineligible to be rolled over to any other type of IRA or any qualified plan, 403(b) plan or governmental 457(b) plan, including a Designated Roth account.
2. The once per year rollover rule applies when there is a distribution from a traditional IRA, SEP-IRA,

SIMPLE-IRA or Roth IRA distribution which is rolled over to a traditional, SEP IRA, SIMPLE-IRA or Roth IRA.

It does not apply to distributions from any non-IRA plan.

It does not apply to distributions from a traditional IRA, SEP IRA or SIMPLE-IRA which is rolled over to a qualified plan, 403(b) plan or governmental 457(b) plan.

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3. Funds within any non-SIMPLE-IRA or any plan are now eligible to be rolled over into a SIMPLE-IRA if the 2-year requirement has been met.
4. SIMPLE-IRA funds may be distributed and rolled over into any other type of plan only if such rollover occurs after the 2-year holding requirement has been satisfied.
5. Funds within any of the 4 types of IRAs are ineligible to be rolled over in a Designated Roth account within a 401 (k) , 403 (b) or 457 (b) plan.
6. Funds within a qualified plan, 403(b) plan or governmental 457 plan may be rolled into a Designated Roth account within a 401(k), 403(b) or section 457(b) only if done as an in-plan rollover. Such distribution amount is includible in income.
7. Designated Roth funds may be distributed and rolled over into a Roth IRA or they may be transferred into a Designated Roth account within a different plan. That is, Designated Roth funds cannot be withdrawn and then rolled over by the participant.

Observe that there are some special rollovers not discussed by the IRS chart.

1. IRA to HSA direct rollovers.
2. Direct rollovers by both spouse beneficiaries and nonspouse beneficiaries.

IRS Summary – A Spouse Beneficiary

What if You Inherit an IRA?

If you inherit a traditional IRA, you are called a beneficiary. A beneficiary can be any person or entity the owner chooses to receive the benefits of the IRA after he or she dies. Beneficiaries of a traditional IRA must include in their gross income any taxable distributions they receive.

Inherited from Spouse

If you inherit a traditional IRA from your spouse, you generally have the following three choices. You can:

1. Treat it as your own IRA by designating yourself as the account owner.
2. Treat it as your own by rolling it over into your IRA, or to the extent it is taxable, into a:
 - a. Qualified employer plan,
 - b. Qualified employee annuity plan (section 403(a) plan),
 - c. Tax-sheltered annuity plan (section 403(b) plan),
 - d. Deferred compensation plan of a state or local government (section 457 plan), or
3. Treat yourself as the beneficiary rather than treating the IRA as your own.

Treating it as your own. You will be considered to have chosen to treat the IRA as your own if:

- Contributions (including rollover contributions) are made to the inherited IRA, or
- You do not take the required minimum distribution for a year as a beneficiary of the IRA.

You will only be considered to have chosen to treat the IRA as your own if:

- You are the sole beneficiary of the IRA, and
- You have an unlimited right to withdraw amounts from it.

However, if you receive a distribution from your deceased spouse's IRA, you can roll that distribution over into your own IRA within the 60-day time limit, as long as the distribution is not a required distribution, even if you are not the sole beneficiary of your deceased spouse's IRA. For more information, see *When Must You Withdraw Assets? (Required Minimum Distributions)* in Pub. 590-B for more information on required minimum distributions.

Excerpt – Page 20 of IRS Publication 590A.