


SNSFE
ATTORNEYS AT LAW

Don't Be Rolled Over By Your Rollover!



New Considerations For Planning Your Retirement Plan Distribution Options



Online Seminar
May 8, 2007

PRESENTED BY:
Scott E. Galbreath, J.D., LL.M.
SGalbreath@snsfe-law.com

Copyright 2007 Shaheen, Novoselsky, Staat, Filipowski & Eccleston, P.C. Chicago, IL. All rights reserved.

SNSFE
ATTORNEYS AT LAW

Welcome to our web presentation.

If you have not yet done so, please call the teleconference operator at 800-276-0269 with your emailed participant passcode in order to hear the audio portion of our presentation. You may submit questions at any time during the presentation using the Q&A tab in the lower right hand corner of your screen. This recorded presentation and separate audio file will be posted at our website at SNSFE-law.com along with a PDF of the slides.

Thank you for taking time out of your busy day to attend.

<p>SCOTT E. GALBREATH</p> <ul style="list-style-type: none"> •SNSFE partner •Helping businesses save money, attract talented employees, and better compensate key players through employee benefit plans for 20 years •Write and speak often about employee benefits •B.A. high honors, Elmhurst College; J.D. and LL.M. (Tax) with honors from IIT Chicago-Kent College of Law 	<p>SNSFE</p> <ul style="list-style-type: none"> •Established in 1960 •Full service business law firm •Representing closely-held businesses, entrepreneurs and individuals •From start-up to succession planning •"AV" Peer Review Rated
--	---

Copyright 2007 Shaheen, Novoselsky, Staat, Filipowski & Eccleston, P.C. Chicago, IL. All rights reserved.

SNSFE
ATTORNEYS AT LAW

What we'll cover

- The new nonspouse rollover rules
- An overview of the minimum required distribution rules
- Why planning is important

Copyright 2007 Shaheen, Novoselsky, Staat, Filipowski & Eccleston, P.C. Chicago, IL. All rights reserved.

Minimum Required Distributions (MRDs)-What

- **Qualified plan requirement (including IRAs)**
- **A minimum requirement of when the entire benefit must be paid**
- **Plan can provide quicker distributions**
- **Familiar rule: Required beginning date-age 70 1/2**

MRDs during life-When

General rule:

-At required beginning date participant must begin taking distributions either:

Over his/her life expectancy under the uniform life table (life expectancy rule) or

Take the entire benefit within 5 years (5 year rule)

MRDs at Death-When

If participant/owner already began MRD's:

If left a Designated Beneficiary

Life Expectancy Rule – beneficiary must receive a deceased participant's entire account balance through annual distributions over his/her life expectancy or over the participant's remaining life expectancy if greater beginning the year after the year of death

-Calculated under single life table

If no Designated Beneficiary

5 Year Rule – beneficiary must receive participant's entire account balance within 5 years of the year after the year of death

MRDs at Death-When

If participant/owner dies before MRD's began:

If Designated Beneficiary

Life Expectancy Rule – beneficiary must receive a deceased participant's entire account balance through annual distributions over his/her life expectancy beginning the year after the year of death

If no designated beneficiary

5 Year Rule

MRDs at Death before MRD's began

Retirement plan can choose which rule shall apply

1. Specify it in the plan document
2. Provide that the participant or beneficiary may elect

If plan silent, life expectancy rule applies if the participant named a designated beneficiary

If not, the 5 year rule applies

Designated Beneficiary

- **Individuals**
 - If multiple use life of oldest
 - Or divide into separate shares
- **Certain "see through" trusts**
- **Not:**
 - Estate
 - Charitable organization

See Through Trust

- Valid under state law
- Irrevocable on death of participant
- Beneficiaries of trust must be identifiable
- Provide documentation to plan administrator
- All current beneficiaries are individuals

Special Rules For Spouses

Life time distributions calculated under uniform life table

- If participant's spouse is more than 10 years younger than use Joint and Last Survivor table causing smaller MRDs

Special Rules For Spouses

If a Surviving Spouse is Sole Beneficiary

- and participant dies before having to take MRDs, then spouse need not take distributions until the participant would have had to take them
- *Ex. H dies at age 60 leaving W age 55, W need not begin distributions until H would have had to start MRDs--2018*

Special Rules For Spouses

If a Surviving Spouse is Sole Beneficiary

- and participant dies after MRDs have begun, then same as any other beneficiary.
- Must begin MRDs by year after year of death and life expectancy is longer of spouse or participant

Special Rules For Spouses

- Life expectancy determined under SLT is recalculated annually to determine the amount of the distribution which means lower distribution than non-spouse designated beneficiary
- Nonspouse beneficiary's life expectancy calculated at first payment and then reduced annually

Special Rules For Spouses-Spousal Rollover

- Spouse may roll over benefits from a qualified plan into an IRA
 - Still take MRDs as beneficiary
- May treat the IRA as her own
 - Start taking MRDs at her age 70 ½
 - Distributions calculated using Uniform Lifetime Table instead of single life table
 - Smaller annual distributions

Special Rules For Spouses-Spousal Rollover

Ex. H dies at age 60 leaving W age 55.

W need not begin distributions until W turns 70 1/2

- **Giving 5 more years of deferral**
- **W gets to name own beneficiary**

New Non-Spouse Rollover Rules

Prior to 2007, nonspouses could not roll over survivor benefits from a qualified retirement plan to an IRA.

Pension Protection Act (“PPA”) of 2006:

- **If nonspouse beneficiary directly rolls over the death benefits into an IRA designated to receive such benefits, the rollover will be tax-free to beneficiary**
 - **must be directly from qualified plan to IRA**
 - **allows nonspouses to avoid immediate taxation**

New Non-Spouse Rollover Rules

Not as advantageous as first seemed:

- **Nonspousal rollover not available if plan doesn't permit it**
- **Nonspouse beneficiary cannot elect to treat the rollover IRA as his/her own**
- **MRDs from IRA follow same rule as specified in qualified plan**

New Non-Spouse Rollover Rules- Exception

If participant dies before required to take distributions and 5-year rule applies:

- Can elect the life expectancy rule if rollover made prior to end of year following the year of death
 - Taxable MRD for such year
- To pay no tax, rollover must be made in the year of death

Why beneficiary planning is important

- Lots of money
- Lots of taxes involved if done wrong
- Lots of rules and traps
- Goals
- Coordination of estate plan and income tax planning

Coordination of estate & income tax planning

- Need to consider retirement assets in context of entire estate
- Preprinted beneficiary designation form is often inadequate
- Typical probate avoidance A-B trusts will not qualify as a see-through trust
- Provisions of estate planning documents and retirement account documents must be reviewed to ensure they don't conflict

New Roth IRA Conversion

- Tax Increase Prevention Act 2005
- Beginning in 2010 anyone can convert an IRA to a Roth IRA
 - Used to be limited to \$100,000 AGI or less
- For 2010 pay tax in 2011 and 2012

Estate Planning Advantages: Roth IRA

- Roth-IRA is a great tool for transferring wealth to next generation
- Beneficiary of a Roth-IRA does not have IRD at the owner's death
- Because no MRDs, the balance is not depleted if not needed

Questions?

Scott E. Galbreath
SGalbreath@SNSFE-law.com

312.621.4400

Shaheen, Novoselsky, Staat,
Filipowski & Eccleston, P.C.
20 N. Wacker Drive, Suite 2900
Chicago, IL 60606-9719

www.SNSFE-law.com
www.FinancialCounsel.com

Thank you!
