Inherited IRAs & Trusts: Understanding and Applying the Current Rules

Stetson University
College of Law

2026 National Conference
on Special Needs Planning
and Special Needs Trusts

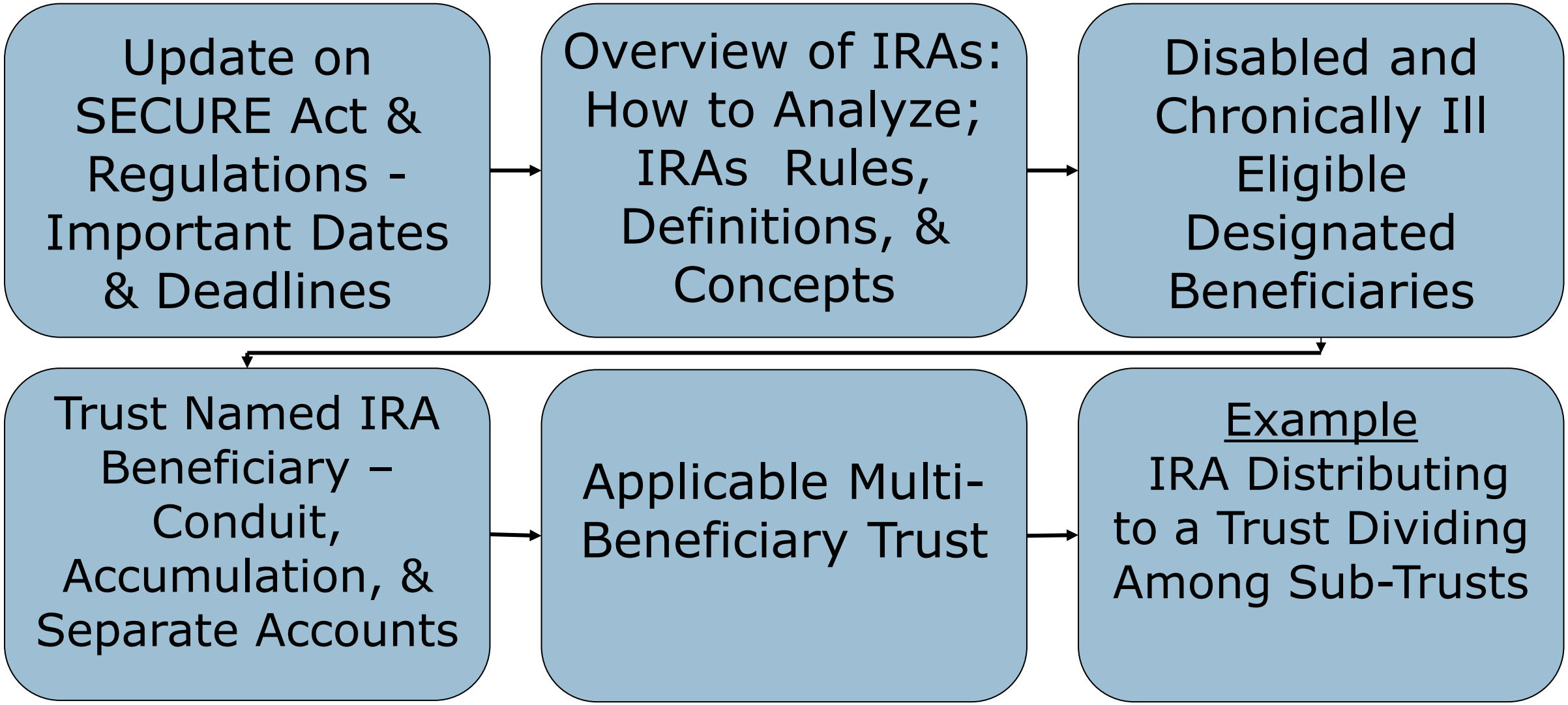


Clearwater Beach, Florida
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Topics


Update on SECURE Act & Regulations - Important Dates & Deadlines
Overview of IRAs: How to Analyze; IRAs Rules, Definitions, & Concepts
Disabled and Chronically Ill Eligible Designated Beneficiaries
Trust Named IRA Beneficiary – Conduit, Accumulation, & Separate Accounts
Applicable Multi-Beneficiary Trust
Example
IRA Distributing to a Trust Dividing Among Sub-Trusts

SECURE Act & Regulations

Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act) - Effective January 1, 2020

- Amended I.R.C. § 401(a)(9)(E) and added new § (H)
- Eliminated "stretch" IRA for everyone except new class of Designated Beneficiaries referred to as "Eligible Designated Beneficiaries"
- Implemented requirement that all IRAs must fully distribute by some date, generally 10 years after death of IRA owner, with exceptions
- Changed the Required Beginning Date from 70½ to 72
- Defined a new type of trust: "Applicable Multi-Beneficiary Trust" (AMBT)

February 24, 2022, IRS issued Proposed Regulations

SECURE 2.0 Act of 2022

SECURE 2.0 Act of 2022 - Signed into law December 29, 2022

1. Increased "Applicable Age" for Required Beginning Date (RBD)
   - To age 73, if attain age 72 after 12-31-22 and 73 before 1-1-2033
   - To age 75, for people who attain age 74 after 12-31-32
2. Modified RMD rules for AMBTs – Charity is DB
   - Defines a charity as Designated Beneficiary for AMBTs.
3. Reduced excise tax for failure to take RMD to 25% or less
4. Changed Surviving Spouse Rules and Options
5. Increased Age for ABLE Account Eligibility
   - Increases age by when disability must have onset from 26 to 46 starting January 1, 2026

2024 Final & New Proposed Regulations

On July 19, 2024, IRS Published –

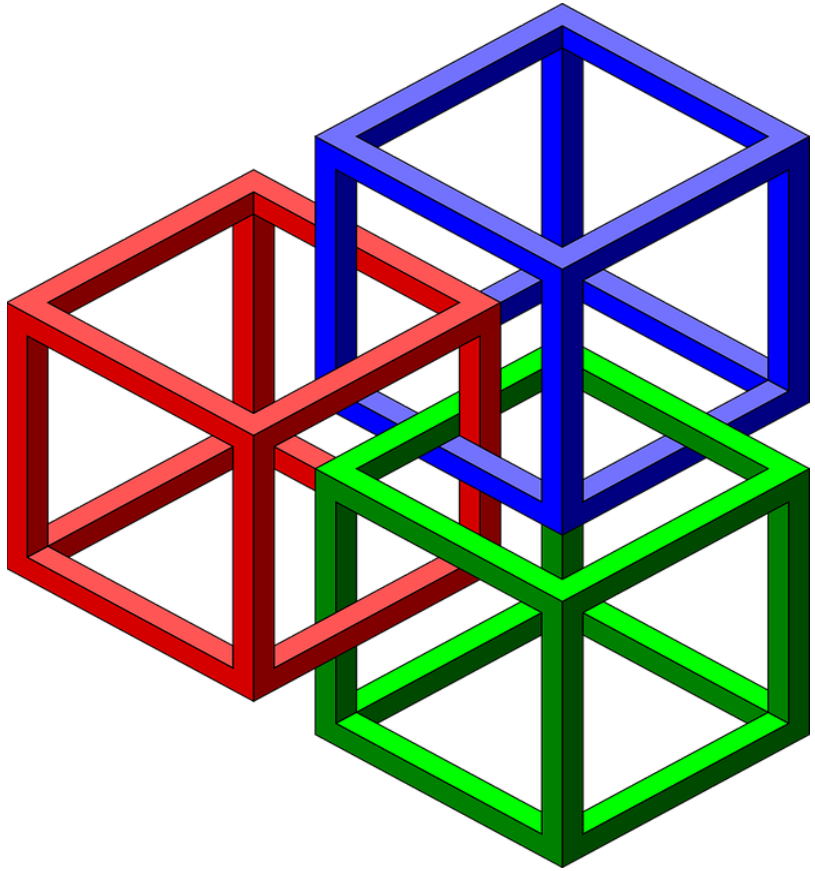
1. Final Regulations for SECURE and some sections of SECURE 2.0 ("2024 Final Regs")
   - Maintained much from proposed regulations
   - But made some changes and additions in final regs

2. Proposed Regulations for some sections of SECURE 2.0 ("2024 Proposed Regulations")
   - Comment period closed September 17, 2024
   - Final regulations not issued yet

What's Changed Since Fall 2023

1. 2024 Final Regulations were effective starting in 2025
2. Type I and Type II AMBT labels gone
   - Separate account treatment available to any immediately-divided see-through trust, if conditions met
3. No documentation required to be given to IRA custodian
   - Unless requested by the custodian
4. Annual RMDs during 10-year period are now enforced
5. IRS Announcements in 2025 & 2026
   - Final regulations apply for calendar year that begins no earlier than 6 months after date final regs are issued in Federal Register
   - Until then, "taxpayers must continue to apply a reasonable, good-faith interpretation of the statutory provisions underlying the regulations."

IRA Rules Before SECURE Act



IRA Rules After SECURE Act



Important Dates & Deadlines for IRAs

1. Date of IRA owner's death
2. December 31 of year IRA owner died
   - Owner's remaining RMD must be taken by beneficiary; preferably by this date
3. Date IRA beneficiary files taxes for year IRA owner died
   - Last date for beneficiary to take owner's remaining RMD without penalty
4. September 30 of year following year IRA owner died
   - Date IRA beneficiaries are finalized (Beneficiary Finalization Date)
5. ~~October 31 of year following year IRA owner died~~
   - ~~Date documentation must be to IRA plan administrator~~
6. December 31 of year following year IRA owner died
   - Date first RMD of beneficiary must be taken to avoid excise tax penalty

Important Dates & Deadlines for IRAs

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   - Date IRA beneficiaries are finalized (Beneficiary Finalization Date)
5. December 31 of year following year IRA owner died
   - Date first RMD of beneficiary must be taken to avoid excise tax penalty
   - If Separate accounts are being created, they must be established by this date

How to Analyze IRAs – 6 Steps

1. Is IRA Owner ?



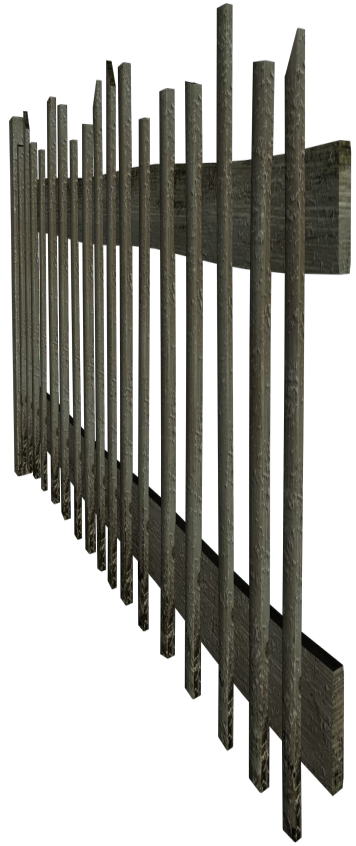
or



How to Analyze IRAs

2. If deceased, when did IRA Owner die ?

Before Required Beginning Date



On or After Required Beginning Date

How to Analyze IRAs

3. What type of beneficiary – 7 options

1. Not Designated Beneficiary

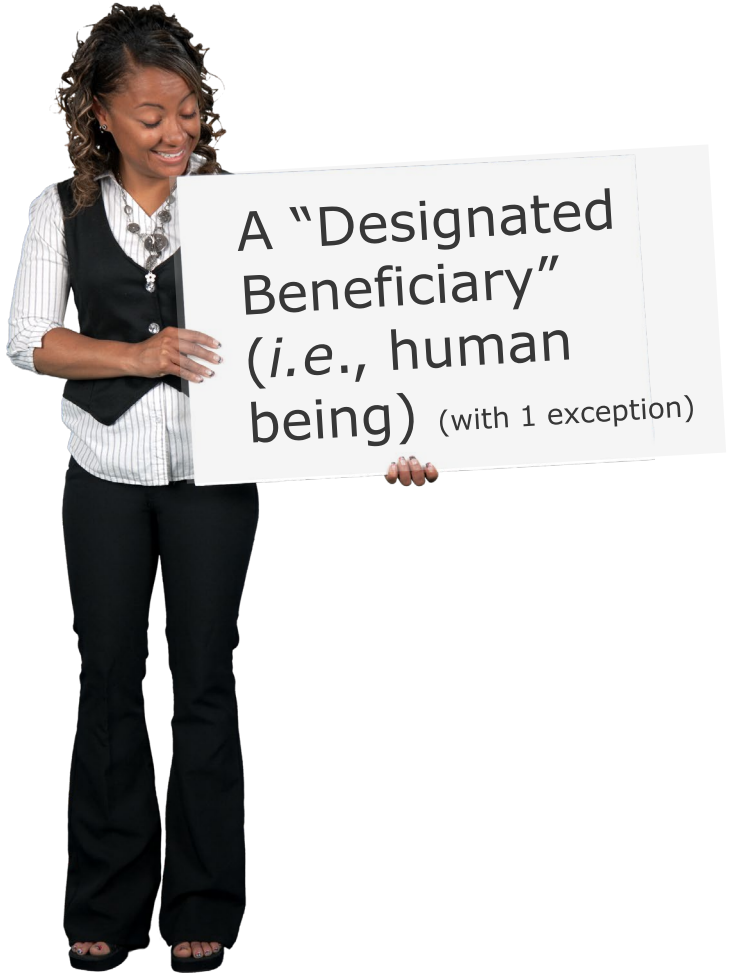
2. Designated Beneficiary

Eligible Designated Beneficiary

3. Surviving spouse of IRA owner	4. Minor child of IRA owner	5. Disabled person	6. Chronically ill person	7. Not more than 10 years younger than IRA owner

How to Analyze IRAs

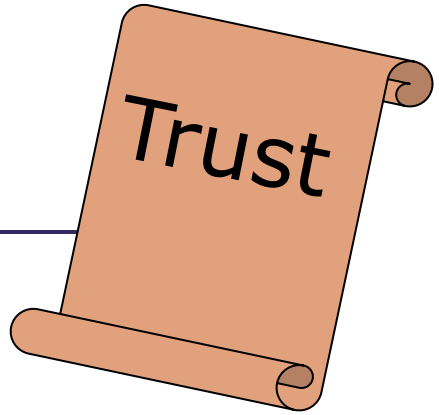
4. Is the IRA beneficiary



or



How to Analyze IRAs



5. If a trust, is it …

Not a See-Through Trust

See-Through Trust

Conduit Trust	Accumulation Trust	Applicable Multi-Beneficiary Trust (AMBT)

How to Analyze IRAs

6. After IRA properly classified, then look at distributions in 2 different ways





Inherited IRA Rules – Definitions & Concepts

1. Required Beginning Date (RBD)

- April 1 of the year following the year within which the IRA owner turns their "Applicable Age" –
  - Age 73, if born on or after 1-1-1951, but before 1-1-1959
    - Age 73, if born in 1959 (2024 Proposed Reg)
  - Age 75, if born on or after 1-1-1960
- But if wait until April 1 of year after year turn Applicable Age, will have 2 RMDs in that year
- Starts requirement of withdrawing annual Required Minimum Distribution (RMD) if IRA owner living

Inherited IRA Rules – Definitions & Concepts

2. Required Minimum Distribution (RMD)

- Minimum amount of IRA that must be withdrawn during a calendar year
- Based on life expectancy of a person
  - IRA owner while living
  - After IRA owner's death, usually the beneficiary
  - Younger the person = longer life expectancy = smaller RMD
- Failure to withdraw subjects beneficiary to excise tax (penalty) of 25% of RMD that was not drawn
  - In addition to normal income tax on RMD

Inherited IRA Rules – Definitions & Concepts

3. Applicable Denominator (AD)

The life expectancy of the person whose life expectancy is used to calculate the Required Minimum Distribution (RMD)

Determining Life Expectancy

1. Single Life Table
   - Used for years after IRA owner's death
2. Uniform Lifetime Table
   - Normal table used –
     A. During IRA owner's life,
     B. Year of IRA owner's death, and if
     C. Surviving spouse elects to be treated as IRA owner
   - Based on joint life expectancy of IRA owner and beneficiary 10-years younger
3. Joint and Last Survivor Table
   - Used while IRA owner is living & sole beneficiary of IRA is spouse more than 10 years younger than IRA owner

Calculating RMD for Inherited IRA

Example:

Value of IRA 12-31-2025	$100,000	= $2,762.43, is RMD for 2026; many round up to $2,763
Life Expectancy of 50-year-old beneficiary in 2026 using Single Life Table	36.2	

If bene not spouse, then next year deduct 1 from prior year: 36.2 – 1 = 35.2
Also used for remaining life expectancy of the deceased IRA owner ("ghost life expectancy")

If bene is surviving spouse, then next year recalculate life expectancy using the Single Life table: age 51 = 35.3

Inherited IRA Rules – Definitions & Concepts

4. Designated Beneficiary (DB)

- Must Be an individual (*i.e.*, a human being)

  (With 1 exception that applies only to an AMBT)

  - Not an entity (estate, charity, corporation, or trust – unless trust qualifies as "see-through")
  - If a group of beneficiaries, **all** must be Designated Beneficiaries; otherwise deemed to be no Designated Beneficiaries (but there are exceptions)

- Determined as of September 30 of year following year of IRA owner's death
  - "Beneficiary Finalization Date"

Inherited IRA Rules – Definitions & Concepts

5. Eligible Designated Beneficiary (EDB)

- A DB who is "eligible" to draw the IRA out over the life expectancy of a person, usually the EDB
- A Designated Beneficiary (DB) who is
  1. Surviving spouse of IRA owner
  2. Minor child of IRA owner
  3. Disabled
  4. Chronically Ill
  5. Not more than 10 years younger than IRA owner
- Must be qualified on date IRA owner died

Inherited IRA Rules – Definitions & Concepts

6. 3 Rules Governing Inherited IRA Distributions

1. 5-Year Rule
   - A. IRA must be fully drawn by December 31 of year containing 5th anniversary of IRA owner's death (End Date)
   - B. Only applies if IRA owner died before RBD and no Designated Beneficiary
2. 10-Year Rule
   - A. IRA must be fully drawn by December 31 of year containing 10th anniversary of IRA owner's death (End Date)
   - B. Slight differences of whose death to use if bene is an EDB and when IRA owner died (before RBD, or on or after RBD)
3. Life Expectancy Rule
   - A. IRA drawn out over life expectancy of someone
   - B. Only available for Eligible Designated Beneficiaries (EDB)

Inherited IRA Rules – Definitions & Concepts

7. No Matter Which IRA Distribution Rule is Used

1. Annual Distributions (RMDs) – Not always required

A. If IRA owner died before RBD, No annual RMDs unless beneficiary is EDB

B. If IRA owner died on or after RBD, everyone must take annual RMDs ("at least as rapidly" rule), even if beneficiary is not an EDB and 10-Year Rule applies

2. End Date – applies to every inherited IRA

A. Every IRA must end and fully distribute someday

B. When End Date occurs depends on

1) Whether IRA owner died before, or on or after, RBD
2) What type of beneficiary is receiving the IRA

Types of IRA Beneficiaries

7 different types of beneficiaries

1. Not Designated Beneficiary (NDB)

2. Designated Beneficiary (ODB)

Eligible Designated Beneficiary (EDB)

3. Surviving spouse of IRA owner	4. Minor child of IRA owner	5. Disabled person	6. Chronically ill person	7. Not more than 10 years younger than IRA owner

Types of IRA Beneficiaries

7 different types of beneficiaries

These are the choices AFTER the SECURE Act

1. Not Designated Beneficiary (NDB)

2. Designated Beneficiary (ODB)

A Designated Beneficiary (usually a person) who is not an Eligible Designated Beneficiary (*i.e.*, Only a Designated Beneficiary)

Types of IRA Beneficiaries

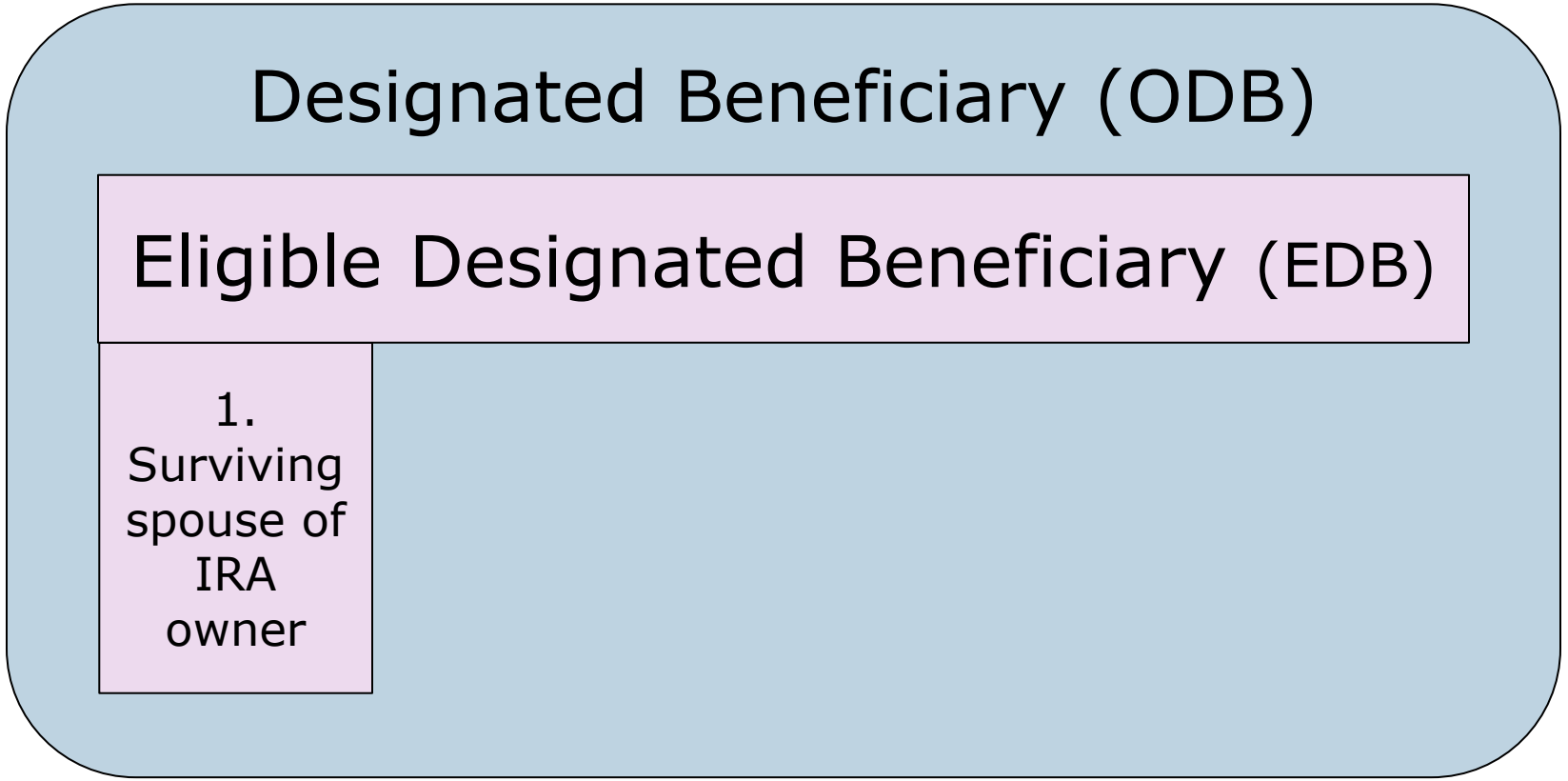
7 different types of beneficiaries

More Details

Spouse must be sole beneficiary for special rules to apply

Spouse can:

1. Roll IRA to spouse, or
2. Treat IRA as inherited
   - Start RMDs when IRA owner would have reached their Applicable Age
   - Life expectancy recalculated each year

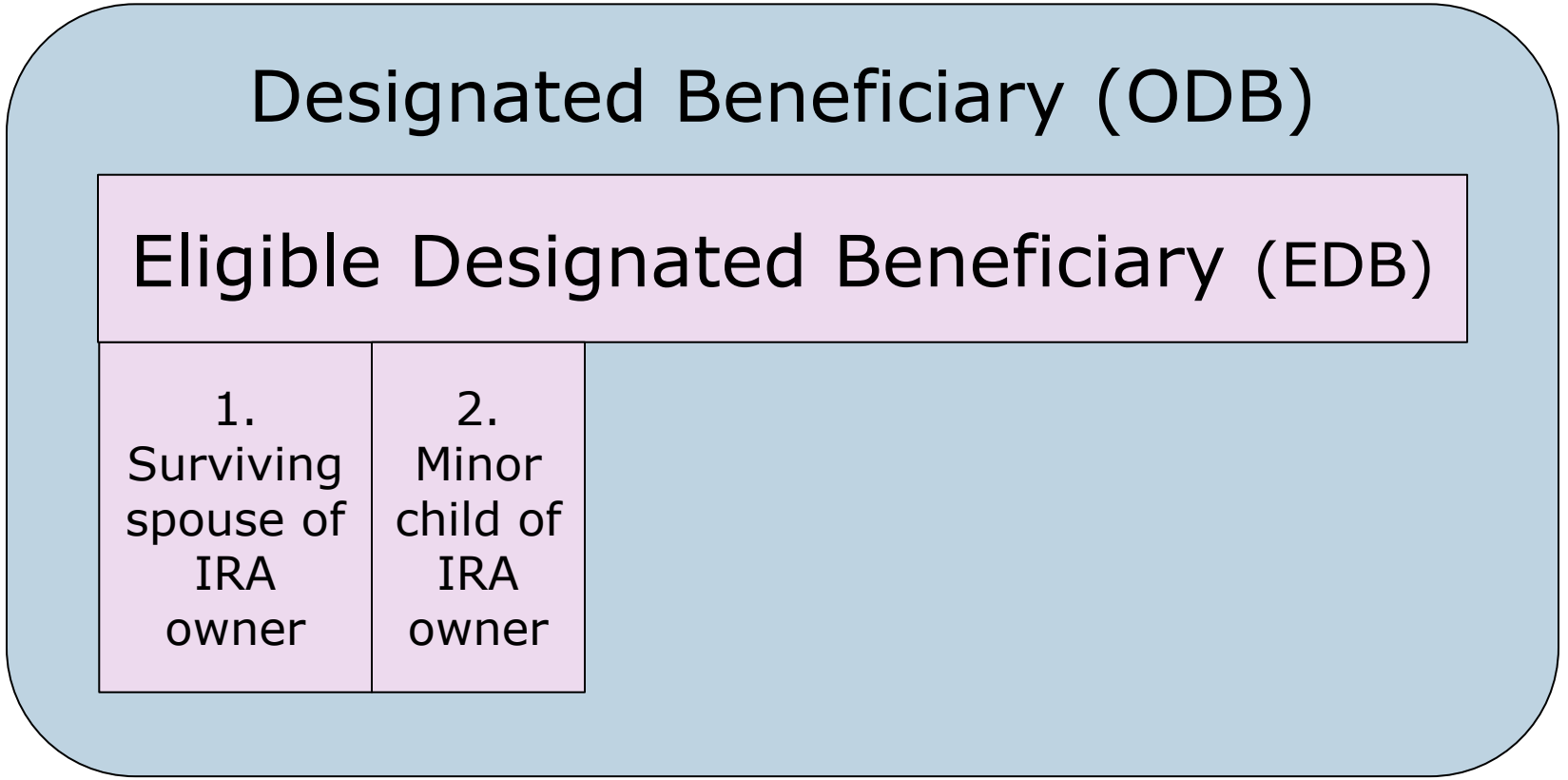


Types of IRA Beneficiaries

7 different types of beneficiaries

More Details

- Regulations set age of majority at 21 years.
- Must be child of the IRA owner (not a grandchild or child of any other person). "Child" includes adopted, step, and eligible foster child (placed by agency or court order).

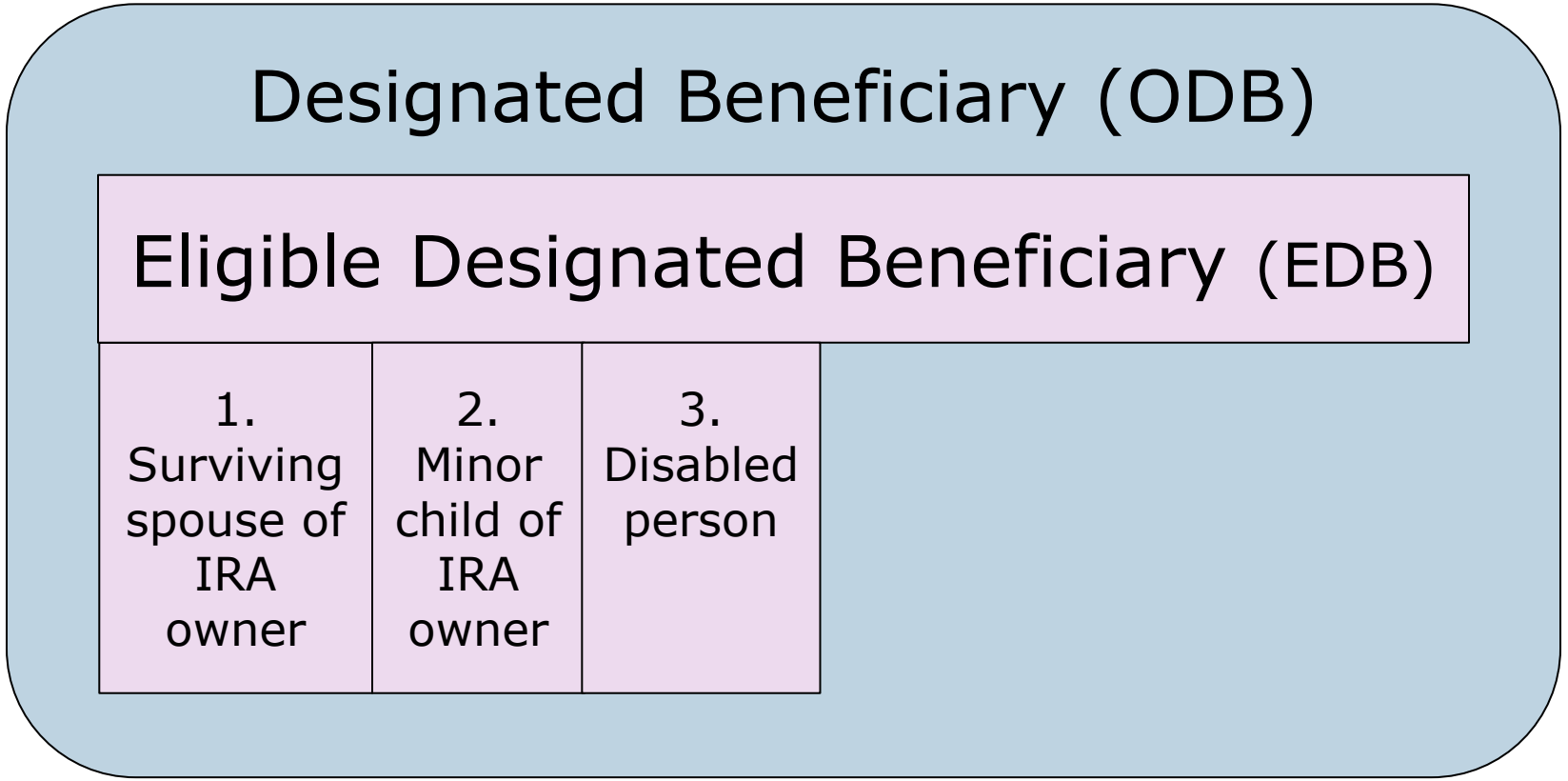


Types of IRA Beneficiaries

7 different types of beneficiaries

More Details

- SSA determination of disability in effect when owner died.
- Otherwise, need medical opinion the beneficiary is sufficiently disabled as defined in IRC § 72(m)(7).



Definition of Disabled for SECURE Act

If, on the date of the IRA owner's death, –

- SSA has determined the beneficiary disabled under 42 U.S.C. § 1382c(a)(3), then the beneficiary is deemed to be sufficiently disabled to be an EDB who is "Disabled"

Definition of Disabled for SECURE Act

If SSA has *NOT* determined the beneficiary disabled on the date of the IRA owner's death

- If 18 or older – must meet IRC § 72(m)(7) dfn.
  - Unable to engage in "substantial gainful activity"
- If under age 18 – must have impairment that results in "marked and severe functional limitations"

Guardianship incapacity finding and ABLE Account eligibility do NOT establish disability

Definition of Disabled if No SSA Determination

Based on IRC § 72(m)(7) (and regulations)

An individual shall be considered to be disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. An individual shall not be considered to be disabled unless he furnishes proof of the existence thereof in such form and manner as the Secretary may require.

SSI Dfn. Essentially any job in US economy that person can perform

72(m)(7) Regs: Activity customarily engaged in prior to disability, considering the person's education, training, and work experience

Definition of Disabled if No SSA Determination

Based on IRC § 72(m)(7) (and regulations)

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SSI Dfn – has lasted or can be expected to last for a continuous period of not less than 12 months

Definition of Disabled if No SSA Determination

Based on IRC § 72(m)(7) - Caselaw

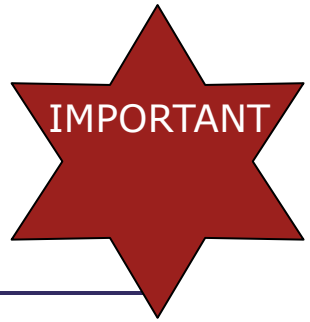
A person who is disabled for Social Security or employment purposes is not necessarily disabled within the meaning of Section 72(m)(7)

Primary consideration is given to nature and severity of ailment

An impairment that is remediable is not a disability for 72(m)(7)

Stipe v. Comm'r of Internal Revenue, 101 T.C.M. (CCH) 1427 (T.C. 2011)

If Minor Child of IRA Owner is Disabled



Minor child only: IRA distributes over life expectancy until age 21, then over 10 years. Must be fully distributed by earlier of end of year containing 10th anniversary of (i) child turning 21 or (ii) dying.

Minor child who is also Disabled at the IRA owner's death: The child stays an EDB for life, so IRA is distributed over life expectancy of child with no age-31 cutoff.

Nothing goes to the IRA custodian, but keep the proof in the file.

This includes the SSA determination of disability, or for a child under 18 without one, medical evidence of "marked and severe functional limitations."

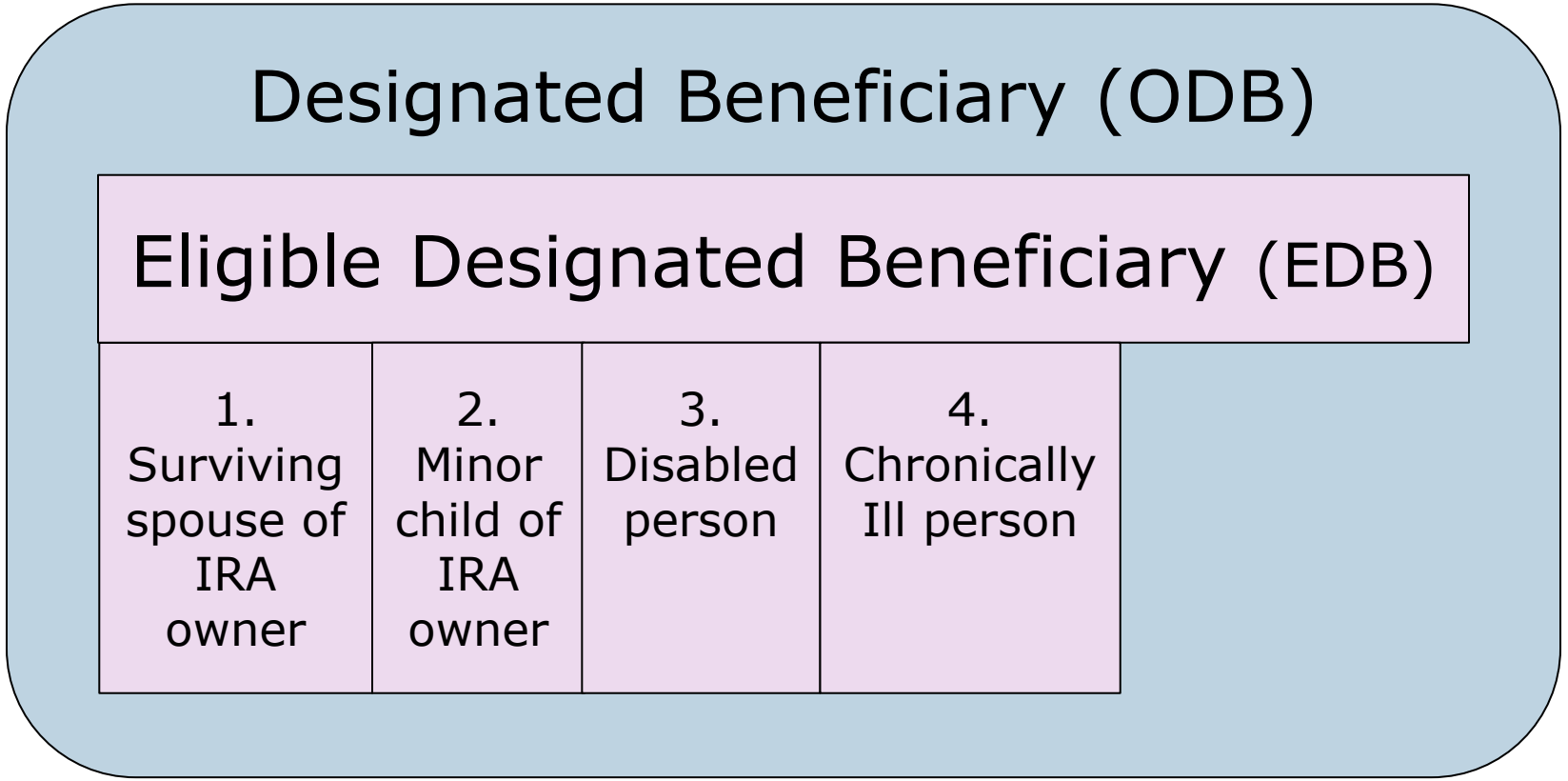
No proof means the age-31 End Date applies

Types of IRA Beneficiaries

7 different types of beneficiaries

More Details

- Definition of Chronically Ill "within the meaning of IRC § 7702B(c)(2), except…period of inability…is an indefinite one which is reasonably expected to be lengthy in nature."
- Certified by "licensed health care practitioner"



Definition of Chronically Ill for SECURE Act

Based on IRC § 7702B(c)(2) & SECURE Act

Certified by licensed health care practitioner to be

1. Unable to perform (w/o substantial assistance from another individual) at least 2 ADLs for *an indefinite [period of time] which is reasonably expected to be lengthy in nature* due to loss of functional capacity, or
2. Having level of disability similar to this, or
3. Require substantial supervision to protect person from threats to health and safety due to severe cognitive impairment

Types of IRA Beneficiaries

7 different types of beneficiaries

More Details

- Does not fit into another EDB category
- For example,

  if the IRA owner turned age 74 on May 28, 2026, then this EDB must be age 64 or older on this date.

Designated Beneficiary (ODB)

Eligible Designated Beneficiary (EDB)

1. Surviving spouse of IRA owner	2. Minor child of IRA owner	3. Disabled person	4. Chronically Ill person	5. Not more than 10 years younger than IRA owner

SECURE 2.0 adds Charity as DB for AMBT

Plus 1 new beneficiary if IRA is in an AMBT

Charity as DB for AMBT

1. Not Designated Beneficiary (NDB)

2. Designated Beneficiary (ODB)

Eligible Designated Beneficiary (EDB)

3. Surviving spouse of IRA owner	4. Minor child of IRA owner	5. Disabled person	6. Chronically ill person	7. Not more than 10 years younger than IRA owner

Beneficiary	IRA Owner Death Before RBD		IRA Owner Death on or After RBD	
	Annual Distributions	**End Date**	**Annual Distributions**	**End Date**
Not DB	None	End of 5th year after IRA owner's death	RMDs based on deceased IRA owner's "ghost" life expectancy	End of last year of deceased IRA owner's "ghost" life expectancy
DB but not EDB	None	End of 10th year after IRA owner's death	RMDs based on *greater* of: (i) DB's life expectancy, or (ii) IRA owner's "ghost" life expectancy	*Earlier* of: (i) end of 10th year after IRA owner's death, or (ii) final year of DB's life expectancy
EDB - Not > 10 years younger than IRA owner, Disabled or Chronically Ill	Life Expectancy of EDB	*Earlier* of: (i) end of 10th year after EDB's death, or (ii) final year of EDB's life expectancy	Life Expectancy Rule. RMDs based on *greater* of (i) EDB's life expectancy, or (ii) IRA owner's "ghost" life expectancy	*Earlier* of: (i) end of 10th year after EDB's death, or (ii) final year of *greater* of EDB's life expectancy or IRA owner's "ghost" life expectancy
EDB - Minor Child of IRA owner	Life Expectancy of child until age 21; then 10-Year Rule with annual RMDs	*Earlier* of end of year containing 10th anniversary of: Death of child, or child turning age 21	Life Expectancy of child until age 21; then 10-Year Rule with annual RMDs	*Earlier* of end of year containing 10th anniversary of: (i) Death of child, or (ii) child turning age 21
EDB - Surviving Spouse as sole beneficiary **(if does not roll over to spouse's IRA)**	Life expectancy of spouse, recalculated annually, RMDs beginning on *later* of: (i) year following IRA owner's death, or (ii) year IRA owner would have reached the Applicable Age	<u>If spouse dies before RMDs begin</u>: spouse is substituted for IRA owner and spouse's date of death used. <u>If spouse dies on or after RMDs start</u>: *Earlier* of: (i) 10-year anniversary of spouse's death, or (ii) final year of spouse's life expectancy (as of date of death, reduced by 1 each year)	*Greater* of (i) spouse's life expectancy, recalculated annually, or (ii) IRA owner's "ghost" life expectancy	*Earlier* of: (i) 10th anniversary of spouse's death, (ii) final year of *greater* of spouse's life expectancy (as of date of death, reduced by 1 each year) or IRA owner's "ghost" life expectancy

Outcomes may differ if IRA is held in a trust.

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Inherited IRA Rules –

Multiple DBs or EDBs

1. General Rule for treatment as DB or EDB

- If not all beneficiaries are DBs, then treated as if no DBs
- If not all beneficiaries are EDBs, then treated as if no EDBs

Exceptions -

1. Minor child of IRA owner is Primary beneficiary
   - IRA treated as having an EDB even if other beneficiaries are ODBs (they still count for RMDs)
2. Separate Accounts
3. See-Through Trust – different rules depending on type
4. AMBT

Inherited IRA Rules –

Multiple DBs or EDBs

2. General Rule for determining RMDs

- Life expectancy of Oldest DB (or EDB) used

Exceptions –

1. Applicable Multi-Beneficiary Trust (AMBT)
   - Life expectancy of oldest beneficiary who is D or CI is used; all others ignored
2. Age 31 Trust
   - Residual beneficiary who receives IRA only if Primary beneficiary dies before age 31 is ignored
3. Separate Accounts

Inherited IRA Rules –

New in Final Regs

Multiple DBs or EDBs

3. General Rules for determining End Date

- If any beneficiary is an ODB – end of 10th year after IRA owner's death
- If all are EDBs – 10th year after the oldest EDB's death

Exceptions –

1. Minor child of IRA owner – End Date is *earlier* of last day of year (i) the youngest minor child turns age 31, or (ii) containing the 10th anniversary of the death of the last of the minor children.
2. Applicable Multi-Beneficiary Trust (AMBT) – 10 years after death of last living beneficiary who is D or CI
3. Separate Accounts

Trust Named as IRA Beneficiary

Steps for Analysis –

1. Is each Trust a "See-Through" trust? If no, stop here; if yes, then continue
2. Classify each trust beneficiary as: NDB, ODB, or EDB (and which type)
3. Classify each beneficiary as: (i) primary or (ii) residual beneficiary who
   A. Receives IRA when primary beneficiary dies, or
   B. Only receives IRA after another residual beneficiary dies
4. Determine if the trust is a "Conduit trust" or "Accumulation trust"
5. Determine if the trust is an Applicable Multi-Beneficiary Trust (AMBT)
6. Determine whether each beneficiary is "countable" or "disregarded"
7. Determine how each countable beneficiary's IRA is distributed, based on:
   A. Whether IRA owner died before, or on or after, RBD, and
   B. Classification of beneficiary as a NDB, ODB, or EDB (and which type)

Trust Named as IRA Beneficiary

Step 1 – Is Trust a "See-Through" Trust?

- If not, there is no DB (a trust is not human) so the default rule applies

Default Rule → IRA distributes over period no longer than:

- If IRA owner died before RBD, or IRA is Roth IRA

  → 5-Year Rule & no RMDs

- If IRA owner died on or after RBD (unless a Roth IRA)

  → RMDs and End Date based on "Ghost" Life expectancy of IRA owner

Trust Named as IRA Beneficiary

See-Through Trust Requirements



1. Trust must be valid under state law;
2. Trust must be irrevocable, or become so upon death of IRA owner; and
3. Trust beneficiaries must be identifiable from the terms of the trust.

Former 4th requirement (trust copy or beneficiary list by Oct. 31) no longer applies to IRAs (it still applies for employer plans, e.g. 401(k)s). Custodians may still ask, so provide it if they do. Either way, keep it in the file.

Beneficiaries Must Be Identifiable

Powers of Appointment, Decanting, and Reformation – Impact on identifiability of beneficiary

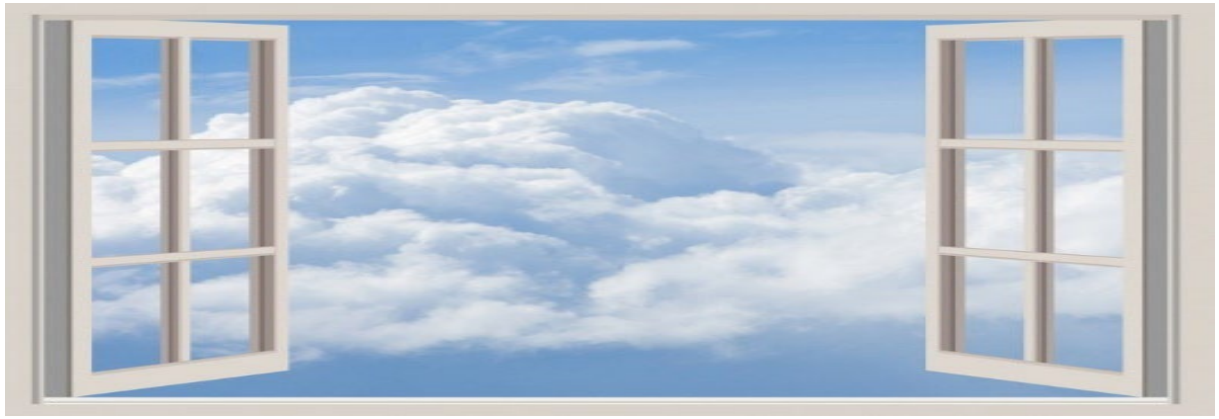
Regulations clarify – Good News!

- Ignored, unless exercised before Beneficiary Finalization Date (BFD)
  - September 30 of year after year IRA owner died
- If exercised before BFD, prior beneficiaries ignored and new beneficiaries are considered and included when determining who is a beneficiary
- If exercised after BFD,
  - No impact on years before exercise
  - May alter RMDs or End Date (by making them worse)

Trust Named as IRA Beneficiary

If Trust Qualifies as a See-Through Trust

Can look through the trust to see which beneficiaries qualify as: (i) Not a Designated Beneficiary (NDB), (ii) Designated Beneficiaries who are not EDBs (ODB), or (iii) Eligible Designated Beneficiaries (EDBs)



- Which beneficiaries must be taken into account ("countable") depends on what type of trust it is: Conduit or Accumulation

Trust Named as IRA Beneficiary

Multiple See-Through Trusts allowed

The beneficiary of a see-through trust can be another see-through trust



Trust Named as IRA Beneficiary

Step 2 – Classify each beneficiary as –

1. A beneficiary who is not a Designated Beneficiary (NDB),
2. A Designated Beneficiary who is not an Eligible Designated Beneficiary (ODB), or
3. An Eligible Designated Beneficiary (EDB),
   - And if so, which type (spouse, minor child of IRA owner, Disabled, Chronically Ill, not more than 10-years younger than IRA owner).

Trust Named as IRA Beneficiary

Step 3 – Classify each beneficiary as a –

1. Primary beneficiary,
2. Residual beneficiary who —
   A. receives some or all of the IRA, its distributions, or proceeds when a primary beneficiary dies or loses their interest in the trust holding the IRA, or
   B. only receives some or all of the IRA, its distributions, or proceeds when another residual beneficiary dies ("disregarded")

Three'ish Levels of Beneficiaries for IRA

Primary Beneficiary

No contingency or prior death required to receive IRA distributions made to the trust

Residual Beneficiary

two types

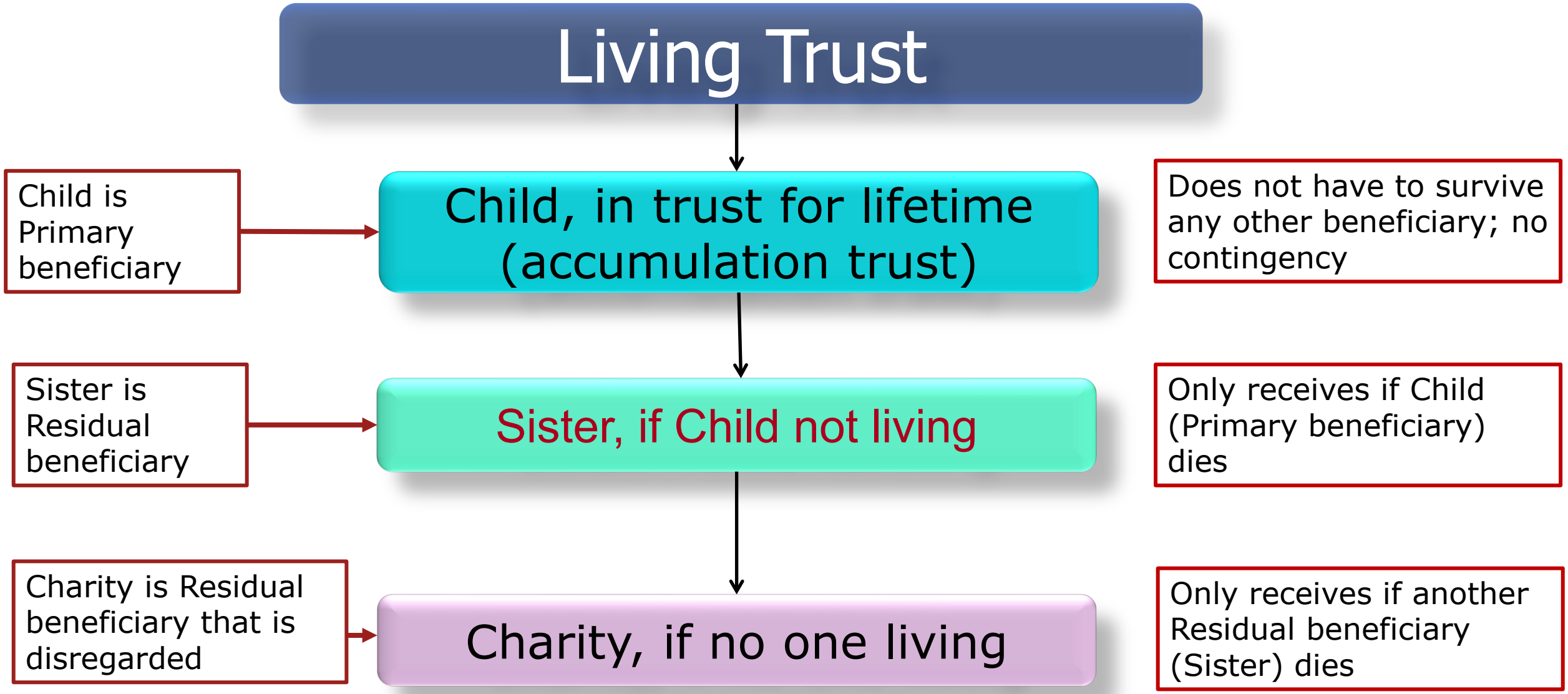
Residual beneficiary – Not Disregarded

- No right to IRA amounts until the Primary beneficiary dies or loses their interest in the trust holding the IRA, and
- Could receive IRA amounts that were not distributed from the trust to the Primary beneficiary

Residual beneficiary - Disregarded

Residual beneficiary (i) of a Conduit Trust, or (ii) who only receives IRA amounts if another Residual beneficiary dies

Example


Living Trust
Child is Primary beneficiary
Child, in trust for lifetime (accumulation trust)
Does not have to survive any other beneficiary; no contingency
Sister is Residual beneficiary
Sister, if Child not living
Only receives if Child (Primary beneficiary) dies
Charity is Residual beneficiary that is disregarded
Charity, if no one living
Only receives if another Residual beneficiary (Sister) dies

Trust Named as IRA Beneficiary

Step 4 – Determine whether the Trust is a –

1. Conduit Trust, or
2. Accumulation Trust.

All see-through trusts are one or the other.

Trust Named as IRA Beneficiary

Step 5 – Is the trust an Applicable Multi-Beneficiary Trust (AMBT)? –

1. Trust is a see-through trust,
2. With more than one beneficiary,
3. All beneficiaries are Designated Beneficiaries (DB),
4. The trust identifies one or more beneficiaries as an EDB who is Disabled (D) or Chronically Ill (CI), and
5. No beneficiary other than a D or CI beneficiary will receive any of the inherited IRA or its proceeds until all D and CI beneficiaries have died

Trust Named as IRA Beneficiary

Step 6 – Based on foregoing, classify each beneficiary as –

1. Countable or
   - Taken into account when determining whether the trust has a DB or EDB, the applicable RMDs, and the End Date
2. Disregarded
   - Ignored when making those determinations

Trust Named as IRA Beneficiary

Step 7 – Determine how each countable beneficiary's IRA is distributed, based on:

A. Whether IRA owner died before, or on or after, RBD, and

B. Classification of beneficiary as a NDB, ODB, or EDB (and which type)

With this information it is possible to determine

1. Whether annual RMDs must be distributed (and if so, how they are calculated), and
2. The End Date

Conduit Trust v. Accumulation Trust

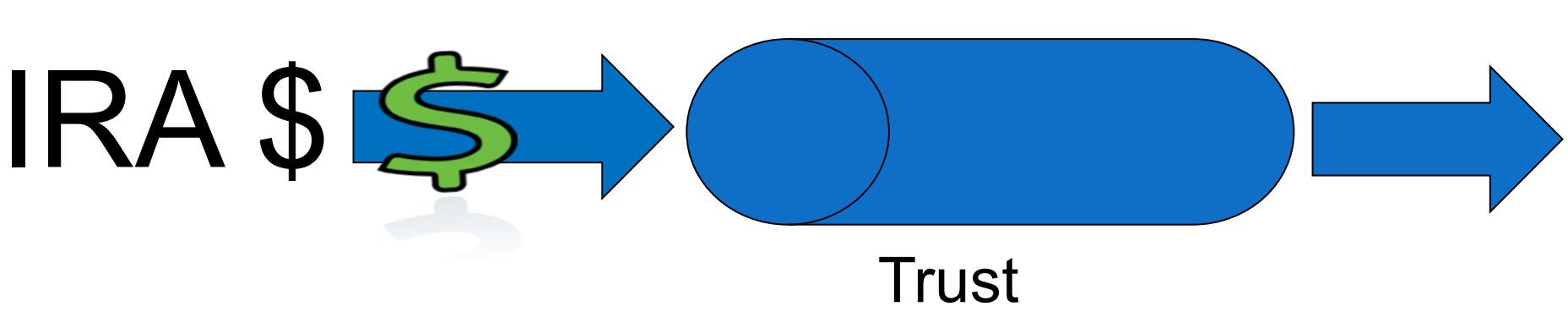
There are 2 types of trusts for inherited IRA purposes

1. Conduit Trust –
   - Requires all IRA distributions (from IRA to trustee) to be paid out (by the trustee, from the trust) to or for the benefit of the Primary beneficiary "upon receipt by the trustee" from the IRA
2. Accumulation Trust –
   - Does NOT require all IRA distributions be distributed to the current Primary beneficiary of the trust upon receipt by the trustee

Trust Named as IRA Beneficiary

Conduit Trust - Definition

- Trust passes all IRA distributions directly to Primary beneficiary
- Trust is merely a "conduit" for getting IRA distributions to the beneficiary





IRA Beneficiary

Trust Named as IRA Beneficiary

Conduit Trust - Result

Only Primary beneficiaries are taken into account (considered) when looking for which beneficiaries are "countable"

- All other beneficiaries are ignored ("disregarded") because it is not possible for any of the IRA required to be distributed to Primary beneficiary to get to the other beneficiaries; all must be distributed to Primary beneficiary

Trust Named as IRA Beneficiary

Conduit Trust – Multiple Beneficiaries

General Rules:

1. All Primary beneficiaries must qualify as a DB or trust treated as not having any DBs. Same for EDBs.

2. Oldest Primary beneficiary's life expectancy is used to determine RMD and End Date.

Trust Named as IRA Beneficiary

Conduit Trust – Multiple Beneficiaries

Exceptions:

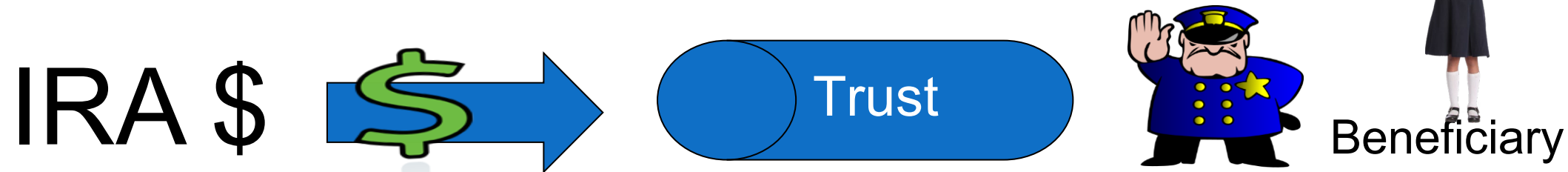
1. Primary beneficiary is minor child of IRA owner
2. Trust is an AMBT
3. IRA splits into separate accounts for each beneficiary,
    a. General Rule: all must use the same RMD and End Date, unless:
        1) Custom IRA beneficiary form directs IRA to separate trusts, or
        2) Trust immediately divides and distributes to separate trust (or outright) for each beneficiary, with no discretion for trustee to allocate how the IRA divides

Trust Named as IRA Beneficiary

Accumulation Trust

No requirement to distribute all IRA distributions to Primary Beneficiary

- Does not matter if trustee has discretion or is directed to not distribute
- Because IRA <u>may</u> be accumulated, some of the IRA that distributed during Primary beneficiary's life may be distributed to remainder beneficiaries of the trust



Trust Named as IRA Beneficiary

Accumulation Trust – General Rules

1. All Primary beneficiaries, and Residual beneficiaries who are not disregarded, must be considered when looking for countable beneficiaries.
2. All countable beneficiaries must be DBs; otherwise the trust is treated as having no DB
3. The life expectancy of the oldest Primary or non-disregarded Residual beneficiary is used to determine the Applicable Denominator to calculate Annual RMDs, if required

Trust Named as IRA Beneficiary

Accumulation Trust – Exceptions to General Rules

1. A Primary beneficiary is a minor child of IRA owner
   - Life expectancy rule applies for minor child's RMDs
     - But must use oldest DB's (including EDBs) life expectancy
2. Trust requires full IRA amount be distributed by *later* of (i) the end of the calendar year following the calendar year of the IRA owner's death, and (ii) the end of the 10th year following the calendar year when the bene attains age 21 (*i.e.,* age 31)
   - Applies to ALL beneficiaries, not just minor child of IRA owner
   - Tip: design trust to comply
3. Trust is an Applicable Multi-Beneficiary Trust (AMBT); and
4. IRA was successfully divided into separate accounts.

Under Age 31 Trust

Only Primary beneficiaries are countable (and Residual beneficiaries ignored) if:

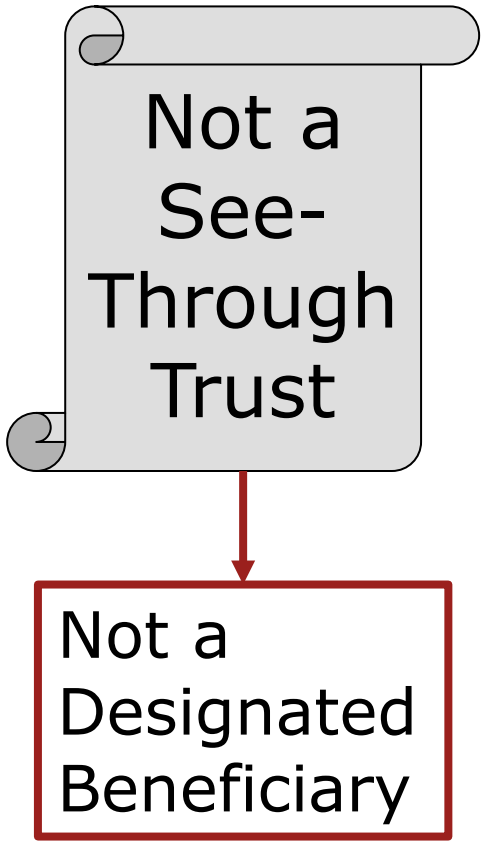
Trust requires that entire IRA must be distributed to primary beneficiary no later than

1. End of year when beneficiary turns age 31 (10th year after the year the beneficiary turns age 21), or
2. End of calendar year after IRA owner died, if later.

- Applies to any Designated Beneficiary
  - Does not need to be child of IRA owner
- Usually affects only RMDs; can change End Date if a disregarded residual would have been a charity or an ODB

Summary of Trusts for Inherited IRAs

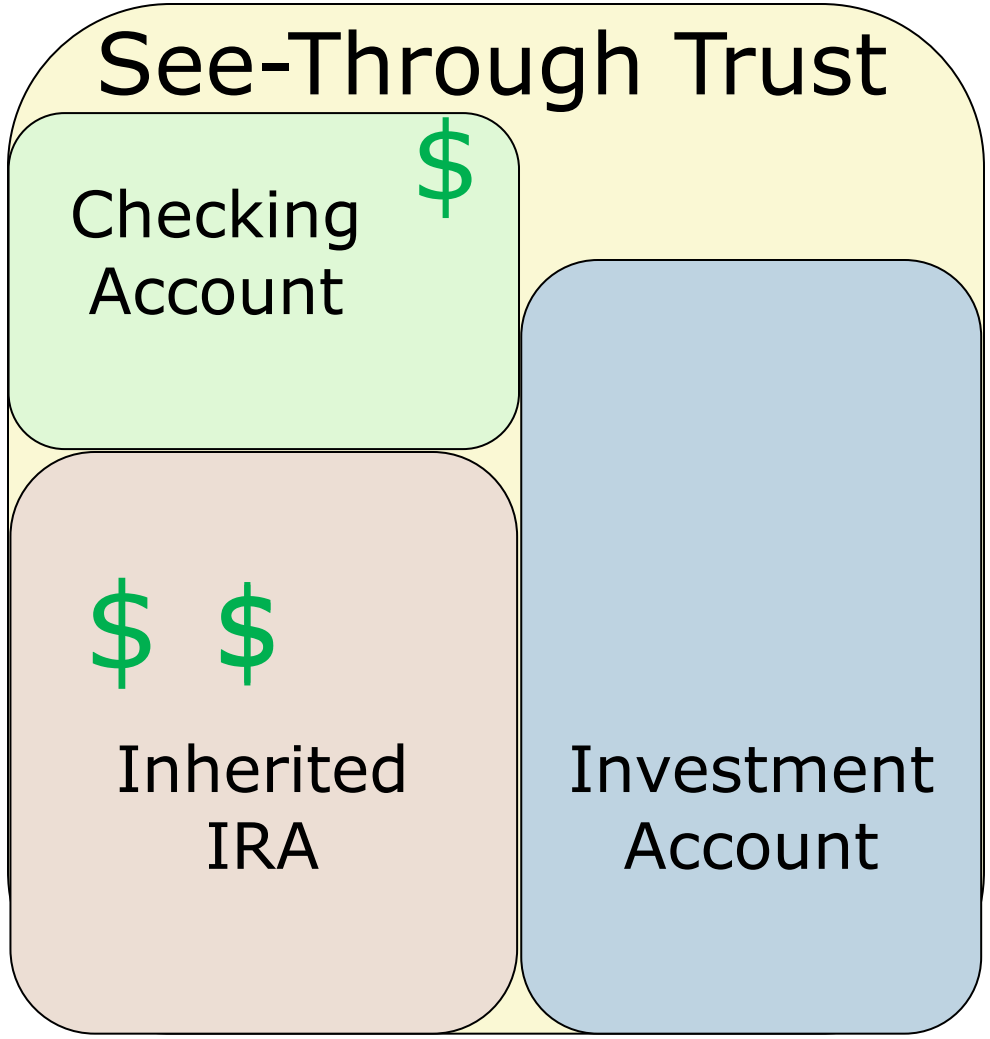
A trust is either



See-Through Trust	
Conduit Trust	Accumulation Trust
Must pay out IRA distribution received by Trustee to or for Trust beneficiary upon receipt	Can accumulate IRA distributions received by Trustee
Only Primary beneficiaries are countable	Primary benes, plus Residual benes who are not disregarded, are both countable

How IRA Distributions Flow

Trust distributions can be
1. To the beneficiary, or
2. For the beneficiary's benefit



IRA distributions from the trust to or for the benefit of the beneficiary –

1. Conduit trust – Trustee is required to distribute upon receipt
2. Accumulation trust - Trustee has discretion to distribute, or hold in trust



Separate Account Treatment

General Rule – If IRA distributes to multiple beneficiaries, the RMDs and End Date will be the same for all, and based on least desirable beneficiary (the non-DB, if any; otherwise, the oldest person who is in the worst beneficiary category)

Exception – It is possible to divide an IRA into "separate accounts" for each beneficiary

- If done correctly, the RMDs and End Date for each beneficiary are based on each beneficiary's classification
- This is "separate account" treatment

Separate Accounts – IRA Payable to people or entities

Two ways to divide IRA into separate accounts

1. IRA beneficiary designation form signed by IRA owner splits IRA among different beneficiaries, or
2. IRA distributes to a group of beneficiaries and then IRA custodian divides IRA into separate IRAs for each beneficiary. Done correctly, each beneficiary receives "separate account" treatment.
   - Beneficiaries are determined as of September 30 of year after IRA owner dies (Beneficiary Finalization Date)
   - Separate accounts must be funded by December 31 of that year

Separate Accounts – IRA Payable to a Trust

General Rule since 2002 Regs - If IRA distributes to a see-through trust with multiple beneficiaries, it is too late to divide into separate accounts and distribute based on each beneficiary. Instead, all beneficiaries treated the same (based on least desirable beneficiary).

SECURE Act and 2022 Proposed Regs - Changed this for AMBTs. Separate Account treatment applied if the trust was an AMBT; each beneficiary of the trust can use their own life expectancy for their inherited IRA. General rule applied if trust was not an AMBT.

2024 Final Regs - Removes requirement that trust must be an AMBT in order for separate account treatment. Instead, all IRA shares payable to any trust receive separate account treatment if certain conditions are satisfied.

Separate Accounts – IRA Payable to a Trust

Example

IRA distributes to see-through trust that directs Trustee to divide and distribute any retirement accounts payable to the trust as follows:

Equally among shares established for Settlor's children, and distributed to or for the benefit of each child according to other provisions of the trust.

(or could say, 50% to child A's share, 25% to child B's share, and 25% to child C's share, etc.)

- Can NOT give Trustee discretion to allocate IRA among the shares.

Doing so causes the General Rule to be applied – no separate account treatment

Separate Accounts – IRA Payable to a Trust

This is NEW

Requirements for Separate Account Treatment

1. IRA distributes to see-through trust that is "immediately divided" into separate see-through trusts for each beneficiary (administrative delay OK if interim IRA amounts are allocated as of date of death).
   a. Or distributes outright to a beneficiary (2024 Proposed Reg),
2. Receiving trust must terminate, and
3. Trustee can NOT have discretion how to divide or distribute the IRA
   a. Division and distribution of IRA must be directed in the trust document
4. Split into separate inherited IRAs by Dec. 31 of year after death

Applicable Multi-Beneficiary Trust (AMBT)

Applicable Multi-Beneficiary Trust

- A "see-through trust"
- Holds an "inherited IRA" for the benefit of an
  - "Eligible Designated Beneficiary" (EDB) who is
  - "Disabled" or "Chronically Ill."
- The "Life Expectancy Rule" applies, which means life expectancy of the EDB is used to determine ("stretch")
  1. How fast the IRA must be distributed
     - Annual "Required Minimum Distributions" (RMDs), and
  2. When the IRA must be fully distributed ("End Date")

Where Is the Law Authorizing AMBTs?

Created by	SECURE Act in late 2019
Enhanced by	SECURE 2.0 Act of 2022 in late 2022
Clarified by	Final IRS Regs for SECURE and SECURE 2.0, and Proposed Regs published July 19, 2024

Definition of an AMBT

An Applicable Multi-Beneficiary Trust is –

A trust that is –

1. A see-through trust,
2. With more than one beneficiary,
3. All beneficiaries are Designated Beneficiaries (DB),*
4. The trust identifies one or more beneficiaries as an EDB who is Disabled (D) or Chronically Ill (CI), and
5. No beneficiary other than a D or CI beneficiary will receive any of the inherited IRA or its proceeds until all D and CI beneficiaries have died.

*Remember, for an AMBT – a qualified charity that is a residual beneficiary is deemed to be a DB

Definition of an AMBT

A charitable organization deemed to be a Designated Beneficiary of an AMBT is one described in § 408(d)(8)(B)(i) –

A. A charitable organization described in § 170(b)(1)(A) other than:
    1) A § 509(a)(3) supporting organization or
    2) A donor advised fund.

B. This allows a charity to be remainder beneficiary (Residual beneficiary) of an AMBT established for the benefit of a D or CI beneficiary

AMBT Drafting Checklist

- Make sure the trust qualifies as a see-through trust
- Identify the D/CI beneficiary in the trust document
- No one else may receive the IRA or proceeds while any D/CI beneficiary is living
- Charity remainder only if qualifies under § 408(d)(8)(B)(i) – not a supporting organization or donor advised fund
- If the IRA passes through a living trust, the trustee cannot have any discretion over how to divide the IRA
- Don’t name the trust an “AMBT Trust”

Early Termination Clause: OK for SSI, Not for AMBT

Many third-party trusts have a termination clause, allowing the trustee (or trust protector) to terminate the trust during the beneficiary's life and distribute as though the beneficiary died.

SSI: acceptable if the beneficiary cannot exercise the power. (See POMS SI 01120.200; see PS 19-005 (Abramson))

AMBT: fatal for the IRA share. The IRA would pass to remainder beneficiaries while the D/CI beneficiary is living.

Fix: on termination, the IRA and its proceeds go only to, or are held for, the D/CI beneficiary. Non-IRA assets can still go to remaindermen. (Treas. Reg. § 1.401(a)(9)-4(g)(2))

Multiple D/CI Beneficiaries in one AMBT

Rules for multiple beneficiaries of an AMBT

- **Annual RMDs** use the oldest D/CI beneficiary's life expectancy (Treas. Reg. § 1.401(a)(9)-5(f)(1)(ii)).
- **End Date** is 10 years after the death of the last surviving D/CI beneficiary (Treas. Reg. § 1.401(a)(9)-5(f)(2)(iii)).

Other beneficiaries are ignored for both.

Trust Named as IRA Beneficiary – Example

- IRA owner dies 5/1/2026, age 75, after RBD,
- IRA names IRA owner's revocable living trust as beneficiary,
- Trust directs Trustee to divide remaining living trust assets (including IRAs) into 3 equal shares, and
- Hold each share in trust for the benefit of each of the 3 beneficiaries

1. **Child 1** – age 45, not Disabled or Chronically Ill
2. **Child 2** – age 15, stepchild, not Disabled or Chronically Ill
3. **Child 3** – age 48, Disabled & receiving SSI and Medicaid

Trust Named as IRA Beneficiary – Example

Child 1 Trust – Hold in trust until age 60; must distribute IRA to Child 1 as received; HEMS for Child 1; if Child 1 dies before 60, successor beneficiary is IRA owner's Sister, age 66; if Sister not living, divide equally among other two children's shares

Child 2 Trust – Hold all but IRA in trust until age 60; HEMS; IRA accumulated but must fully distribute to Child 2 no later than end of year when Child 2 is 31; if Child 2 dies before 60, successor beneficiary is IRA owner's Sister, age 66; if not living, divide equally among other two children's shares

Child 3 Trust – Hold in trust for Child 3's lifetime, distribute for special needs (i.e., 3rd party-settled SNT); successor beneficiaries are: 50% to IRA owner's Sister, age 66, if she survives; Remainder (or all if sister does not survive) to public § 501(c)(3) Charity serving people with Down syndrome

Trust Named as IRA Beneficiary

Steps for Analysis –

1. Is each Trust a "See-Through" trust? If no, stop here; if yes, then continue
2. Classify each trust beneficiary as: NDB, ODB, or EDB (and which type)
3. Classify each beneficiary as: (i) primary or (ii) residual beneficiary who
   A. Receives IRA when primary beneficiary dies, or
   B. Only receives IRA after another residual beneficiary dies
4. Determine if the trust is a "Conduit trust" or "Accumulation trust"
5. Determine if the trust is an Applicable Multi-Beneficiary Trust (AMBT)
6. Determine whether each beneficiary is "countable" or "disregarded"
7. Determine how each countable beneficiary's IRA is distributed, based on:
   A. Whether IRA owner died before, or on or after, RBD, and
   B. Classification of beneficiary as a NDB, ODB, or EDB (and which type)

Trust Named as IRA Beneficiary

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Trust Named as IRA Beneficiary

See-Through Trust Requirements



1. Trust must be valid under state law;
2. Trust must be irrevocable, or become so upon death of IRA owner; and
3. Trust beneficiaries must be identifiable from the terms of the trust.

Former 4th requirement (trust copy or beneficiary list by Oct. 31 of year after IRA owner died) no longer applies to IRAs (it still applies for employer plans, e.g. 401(k)s). Custodians may still ask, so provide it if they do. Either way, keep it in the file.

Trust Named as IRA Beneficiary

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Types of IRA Beneficiaries

7 different types of beneficiaries

1. Not Designated Beneficiary (NDB)

2. Designated Beneficiary (ODB)

Eligible Designated Beneficiary (EDB)

3. Surviving spouse of IRA owner	4. Minor child of IRA owner	5. Disabled person	6. Chronically ill person	7. Not more than 10 years younger than IRA owner

Trust Named as IRA Beneficiary – Example

Classify Beneficiaries

1. **Child 1** – age 45, not Disabled or Chronically Ill

   Designated Beneficiary but not Eligible Designated Beneficiary (Only a Designated Beneficiary - ODB)

2. **Child 2** – age 15, stepchild, not Disabled or Chronically Ill

   Minor stepchild of IRA owner (EDB who is minor child of IRA owner)

3. **Child 3** – age 48, Disabled & receiving SSI and Medicaid

   Eligible Designated Beneficiary who is Disabled (EDB Disabled)

4. **Sister** – age 66, not Disabled or Chronically Ill

   EDB who is Not more than 10 years younger than IRA owner

5. **Charity** – Not a human

   Not a Designated Beneficiary (NDB)

Trust Named as IRA Beneficiary

Steps for Analysis –

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Trust Named as IRA Beneficiary – Example

Child 1 Trust – Hold in trust until age 60; must distribute IRA to Child 1 as received; HEMS for Child 1; if Child 1 dies before 60, successor beneficiary is IRA owner's Sister, age 66; if Sister not living, divide equally among other two children's shares

Conduit – Not AMBT

Child 2 Trust – Hold all but IRA in trust until age 60; HEMS; IRA accumulated but must fully distribute to Child 2 no later than end of year when Child 2 is 31; if Child 2 dies before 60, successor beneficiary is IRA owner's Sister, age 66; if not living, divide equally among other two children's shares

Accumulation – Not AMBT

Child 3 Trust – Hold in trust for Child 3's lifetime, distribute for special needs (*i.e.*, 3rd party-settled SNT); successor beneficiaries are: 50% to IRA owner's Sister, age 66, if she survives; Remainder (or all if sister does not survive) to public § 501(c)(3) Charity serving people with Down syndrome

Accumulation – AMBT

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Trust Named as IRA Beneficiary

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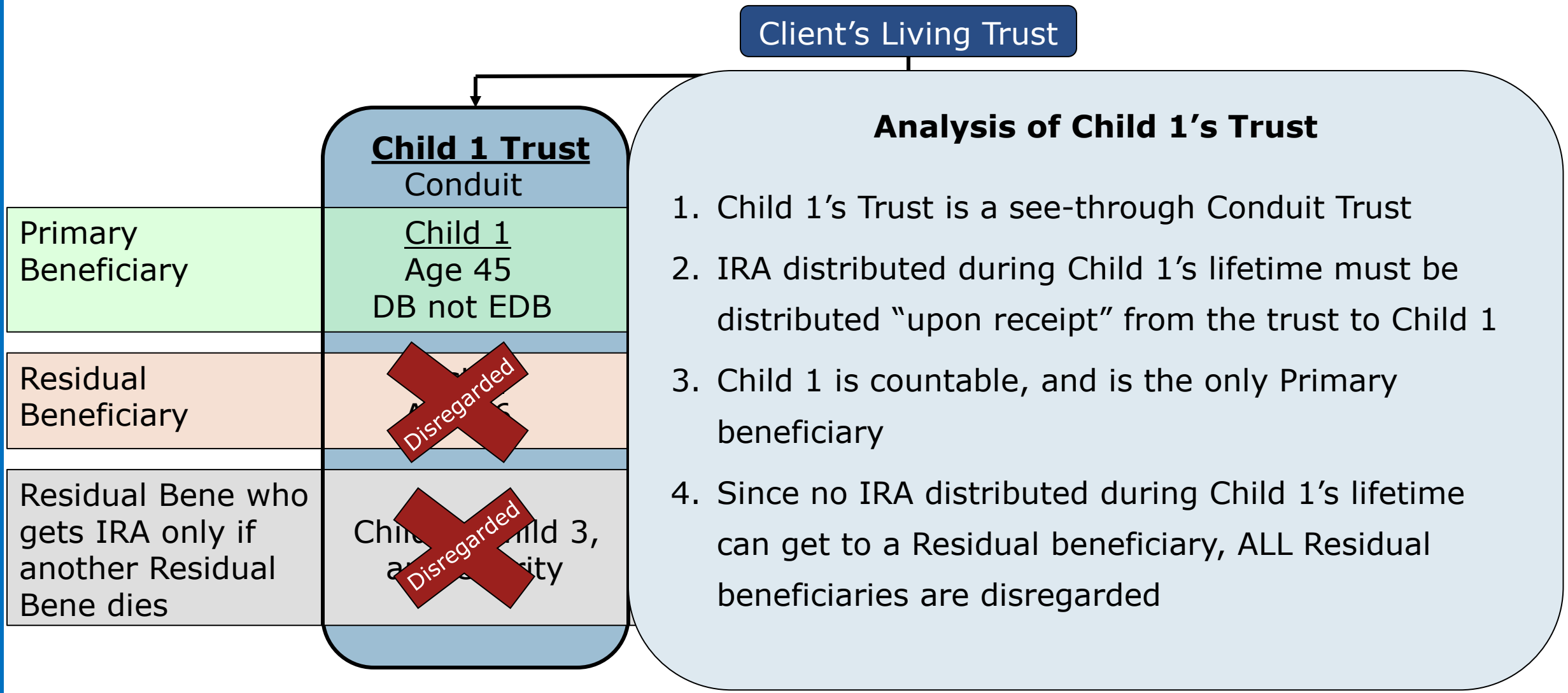
Trust Named as IRA Beneficiary – Example

Child 1 Trust – Age 45, ODB - Hold in trust until age 60; must distribute IRA to Child 1 as received; HEMS for Child 1; if Child 1 dies before 60, successor beneficiary is IRA owner's Sister, age 66; if Sister not living, divide equally among other two children's shares

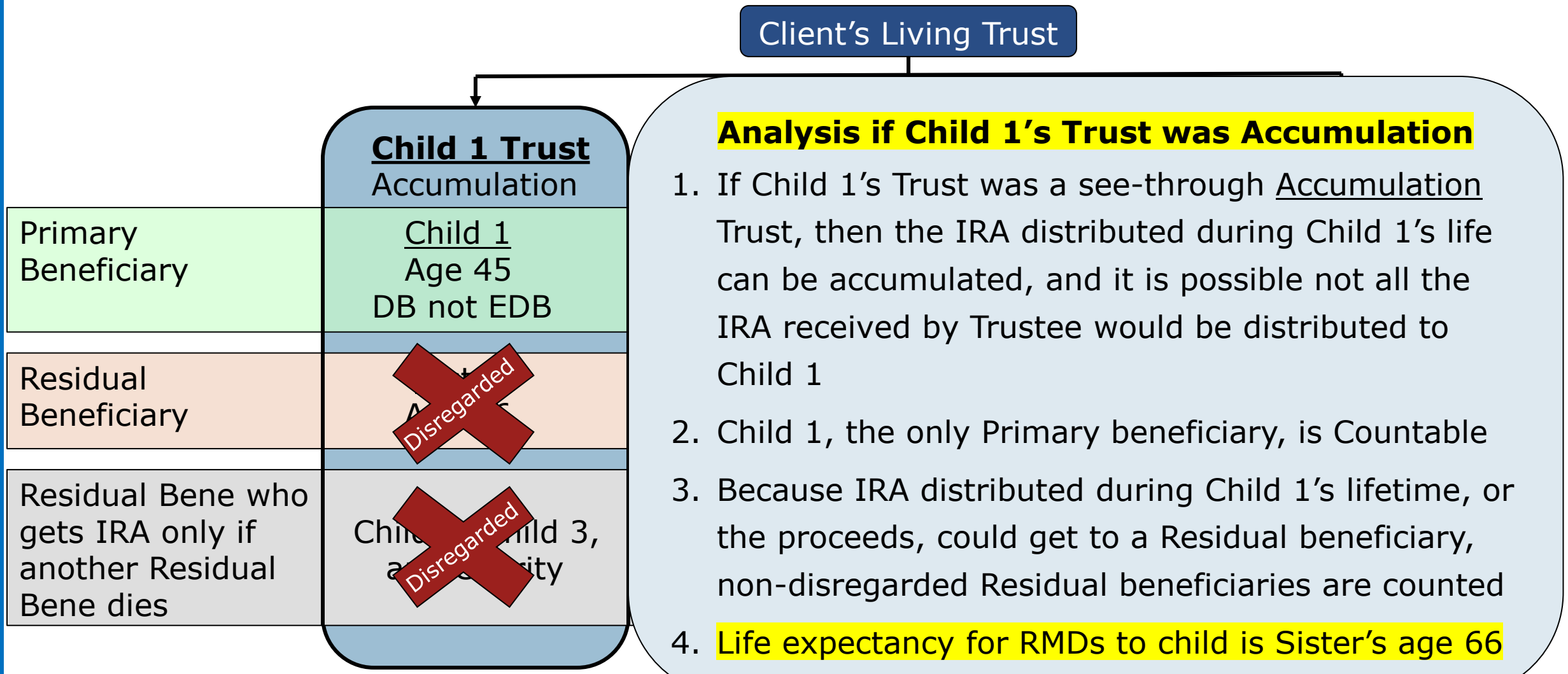
Primary Beneficiary	Child 1
Residual beneficiary who receives IRA when Primary beneficiary dies	Sister
Residual beneficiary who only receives if another Residual beneficiary dies	Child 2, Child 3, and Charity

Type of Trust: Conduit ~~or Accumulation~~

Trust Named as IRA Beneficiary – Example



Trust Named as IRA Beneficiary – Example



Analysis if Child 1's Trust was Accumulation

1. If Child 1's Trust was a see-through Accumulation Trust, then the IRA distributed during Child 1's life can be accumulated, and it is possible not all the IRA received by Trustee would be distributed to Child 1
2. Child 1, the only Primary beneficiary, is Countable
3. Because IRA distributed during Child 1's lifetime, or the proceeds, could get to a Residual beneficiary, non-disregarded Residual beneficiaries are counted
4. Life expectancy for RMDs to child is Sister's age 66

Beneficiary	IRA Owner Death Before RBD		IRA Owner Death on or After RBD	
	Annual Distributions	**End Date**	**Annual Distributions**	**End Date**
Not DB	None	End of 5th year after IRA owner's death	RMDs based on deceased IRA owner's "ghost" life expectancy	End of last year of deceased IRA owner's "ghost" life expectancy
DB but not EDB	None	End of 10th year after IRA owner's death	RMDs based on *greater* of: (i) DB's life expectancy, or (ii) IRA owner's "ghost" life expectancy	*Earlier* of: (i) end of 10th year after IRA owner's death, or (ii) final year of DB's life expectancy
EDB - Not > 10 years younger than IRA owner, Disabled or Chronically Ill	Life Expectancy of EDB	*Earlier* of: (i) end of 10th year after EDB's death, or (ii) final year of EDB's life expectancy	Life Expectancy Rule. RMDs based on *greater* of (i) EDB's life expectancy, or (ii) IRA owner's "ghost" life expectancy	*Earlier* of: (i) end of 10th year after EDB's death, or (ii) final year of *greater* of EDB's life expectancy or IRA owner's "ghost" life expectancy
EDB - Minor Child of IRA owner	Life Expectancy of child until age 21; then 10-Year Rule with annual RMDs	*Earlier* of end of year containing 10th anniversary of: Death of child, or child turning age 21	Life Expectancy of child until age 21; then 10-Year Rule with annual RMDs	*Earlier* of end of year containing 10th anniversary of: (i) Death of child, or (ii) child turning age 21
EDB - Surviving Spouse as sole beneficiary **(if does not roll over to spouse's IRA)**	Life expectancy of spouse, recalculated annually, RMDs beginning on *later* of: (i) year following IRA owner's death, or (ii) year IRA owner would have reached the Applicable Age	<u>If spouse dies before RMDs begin</u>: spouse is substituted for IRA owner and spouse's date of death used. <u>If spouse dies on or after RMDs start</u>: *Earlier* of: (i) 10-year anniversary of spouse's death, or (ii) final year of spouse's life expectancy (as of date of death, reduced by 1 each year)	*Greater* of (i) spouse's life expectancy, recalculated annually, or (ii) IRA owner's "ghost" life expectancy	*Earlier* of: (i) 10th anniversary of spouse's death, (ii) final year of *greater* of spouse's life expectancy (as of date of death, reduced by 1 each year) or IRA owner's "ghost" life expectancy

Outcomes may differ if IRA is held in a trust.

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Trust Named as IRA Beneficiary – Example

Child 2 Trust – Age 15 minor child EDB - Hold all but IRA in trust until age 60; HEMS for Child 2; IRA accumulated but must be fully distributed to Child 2 no later than end of year when Child 2 is 31; if Child 2 dies before 60, successor beneficiary is IRA owner's Sister, age 66; if Sister not living, divide equally among other children's shares

Primary Beneficiary	Child 2
Residual beneficiary who receives IRA when Primary beneficiary dies	Sister
Residual beneficiary who only receives if another Residual beneficiary dies	Child 1, Child 3, and Charity

Type of Trust: ~~Conduit~~ or Accumulation Minor Child, IRA distributed by 31

Trust Named as IRA Beneficiary – Example

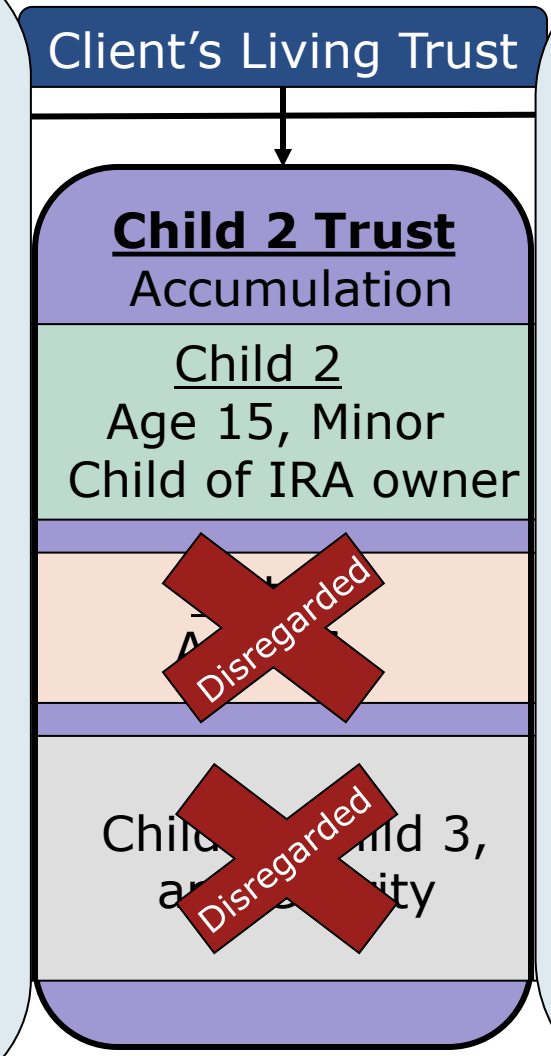
Primary Beneficiary

Residual Beneficiary

Residual Bene w gets IRA only if another Residual Bene dies

Analysis of Child 2's Trust

1. Is Accumulation Trust
2. Residual benes who only receive IRA on death of other RB disregarded
3. **General rule** – both the Primary and Residual beneficiaries are Countable, all are EDBs, so Life Expectancy Rule applies.
4. **But Exception** – Child 2 is minor child of IRA owner EDB - End Date is end of year child is 31 (if living)



Analysis of Child 2's Trust

4. **General Rule** – Age of oldest countable DB is used for RMDs; Sister's age 66
5. **But Exception** – the IRA was divided into a separate account for Child 2's trust and (i) Child 2 is Primary beneficiary and (ii) IRA must be fully distributed by the end of year Child 2 is age 31, so trust qualifies for Age 31 Trust Exception. Thus, Residual benes are ignored; Child 2's life expectancy is used for RMDs.

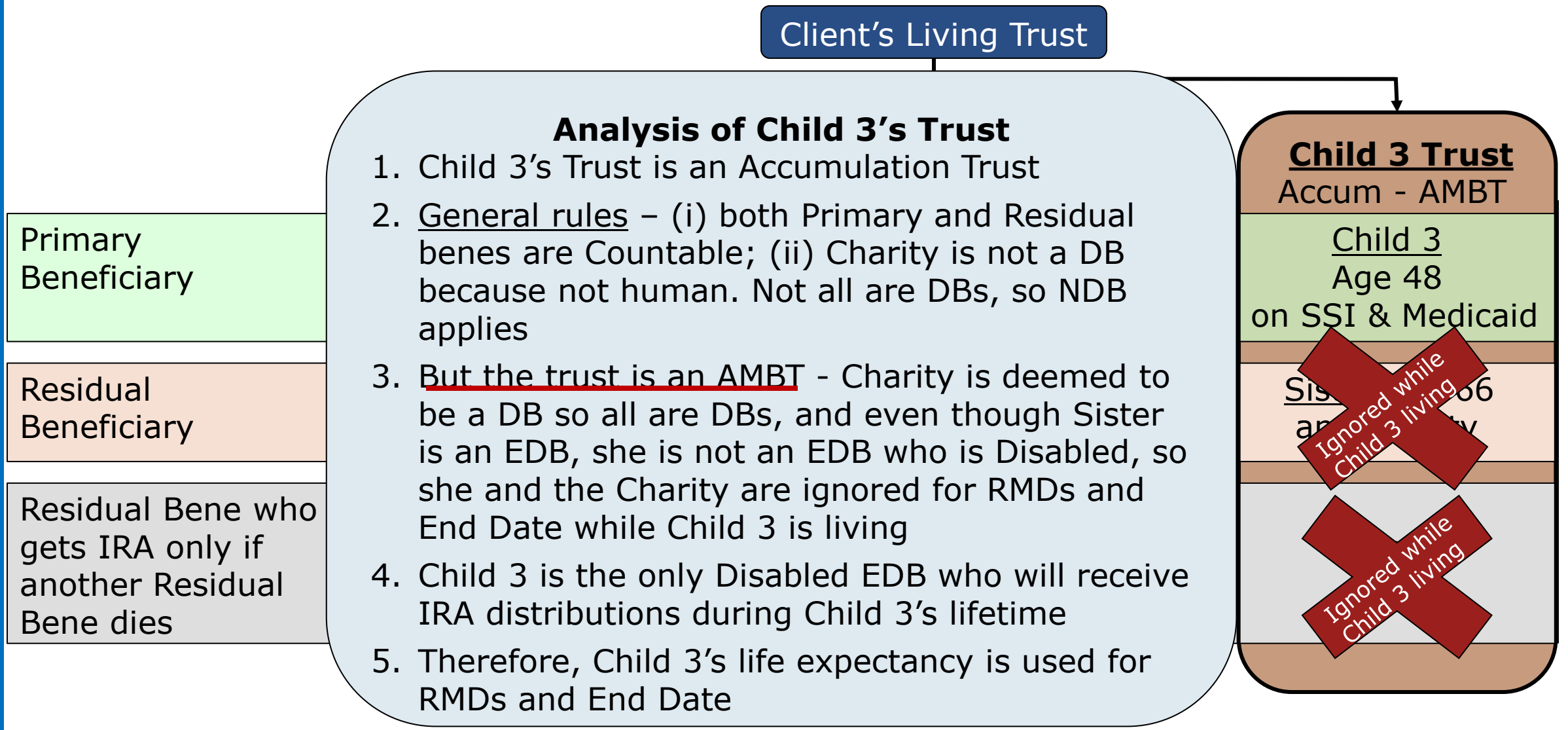
Trust Named as IRA Beneficiary – Example

Child 3 Trust – age 48 Disabled EDB - Hold in trust for Child 3's lifetime, distribute for her special needs (*i.e.*, 3rd party-settled SNT); Upon death, successor beneficiaries are: 50% to IRA owner's sister, age 66, if survives; Rem (or all if sister does not survive) to Charity

Primary Beneficiary	Child 3
Residual beneficiary who receives IRA when Primary beneficiary dies	Sister and Charity
Residual beneficiary who only receives if another Residual beneficiary dies	Charity

Type of Trust: ~~Conduit or~~ Accumulation and AMBT

Trust Named as IRA Beneficiary – Example



The Residual-EDB Trap for the Unwary

Sister (age 66) is an EDB

- Not more than 10 years younger than the IRA owner (75)
- Normally, will be able to spread RMDs over her life expectancy

But Sister is a Residual beneficiary of Child 3's AMBT

When Child 3 dies:

- Sister does NOT get her own life expectancy
- Annual RMDs continue, using Child 3's factor reduced by 1 each year
- IRA must be fully distributed by end of the 10th year after Child 3's death

EDB status helps only a Primary beneficiary

What If the Trustee Had Discretion to Allocate the IRA?

Same facts – but the Trustee has discretion to decide how much of the IRA goes to each child's trust

No separate account treatment

- IRA is analyzed as one account; beneficiaries of all three trusts are pooled
- The worst countable beneficiary in any share controls every share

What If the Trustee Had Discretion to Allocate the IRA?

The worst countable bene is the charity in Child 3's SNT

- When all beneficiaries are pooled, trust is not an AMBT
  - Child 1 and Child 2 receive during Child 3's life
- Charity is not a DB (deemed DB only for AMBT status)
- Result: no DB → owner's "ghost" life expectancy for everyone

Takeaways for Trusts Holding IRAs

1. Classify the beneficiaries before you draft
2. An SNT holding an IRA will be an accumulation trust – design it as an AMBT
3. Identify the D/CI beneficiary – no one else may receive the IRA or its proceeds while that beneficiary is living
4. Check the early-termination clause and any charitable residual beneficiary (must be a qualified charity)
5. Direct how the IRA divides – no trustee discretion – and split it into separate inherited IRAs by Dec. 31 of the year after death
6. Keep proof of disability or chronic illness in the file – no one asks for it until it matters
7. Watch for final regulations on the 2024 proposals

Any Questions?





Inherited IRAs & Trusts: Understanding and Applying the Current Rules

Stetson University
College of Law

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on Special Needs Planning
and Special Needs Trusts

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