

Spousal Rollover Through an Estate and Trust

Quick-Take: Income taxes might be avoidable if a surviving spouse is not named as the designated beneficiary of his/her deceased spouse's IRA, but it might require the cost of a private letter ruling to get to that income tax result.

Background: The IRS has demonstrated over the years a lenient eye when it comes to a surviving spouse attempting to achieve a rollover of his/her deceased spouse's IRA when they are not named as the designated beneficiary. A recent private letter ruling is just one more example of how the IRS will seek to help a surviving spouse achieve a spousal rollover and avoid paying an income tax on the decedent's IRA distribution.

Private Letter Ruling 202621003 (May 22, 2026)

Facts: The decedent was married. He had both a Will and a Trust. His wife was named as Personal Representative of his estate under his Will. Both the decedent and his wife were named as co-trustees of the Trust. The decedent owned an IRA. He originally named his mother as the designated beneficiary of his IRA, but she had predeceased him. The decedent's estate was named as the contingent or default beneficiary of his IRA. Therefore, the decedent's estate became the sole beneficiary of his IRA on his death. After his death, a state court admitted his Will to probate, and his widow was appointed the sole Personal Representative of the probate estate. The decedent's Will poured over its residue to the decedent's Trust. A probate court order directed that the IRA (and all other of the decedent's assets) be distributed to the Trust. The widow thus became the sole trustee of the Trust on her husband's death. As both the sole trustee and the beneficiary of the Trust, the widow possessed the absolute authority to 'withdraw any part of the Trust's assets in her sole discretion.'

Requested Ruling: The widow, acting in her dual capacity as the sole Personal Representative of the decedent's probate estate and the sole trustee of his Trust, expressed an intent to distribute the IRA proceeds to herself, and within 60 days of taking receipt of those IRA proceeds, roll over that distribution into one or more IRAs to be established in her own name. Her concern was whether those transfers would trigger an immediate taxable event of her late husband's traditional IRA. The widow's concerns arose

due to the Tax Code and its implementing Regulations, which provide that as a 'general rule' "any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under IRC 72." [IRC 408(d)(1).]

The Law: Key provisions of the Tax Code at play follow:

- **60-day Rollover:** The Tax Code contains an exception to the 'general rule' just noted, which provides that the 'general rule' does not apply to any amount distributed from an IRA 'if the entire amount received (including money and other property) is paid into an IRA ... for the benefit of such individual not later than the 60th day after the day on which he/she receives the payment or distribution.' [IRC 408(d)(3)(A).]
- **No Rollover of Inherited IRAs:** The Tax Code does not permit, however, a rollover of an inherited IRA. [IRC 408(d)(3)(C)(i).]
- **Surviving Spouse Exception:** Yet there is another exception which is that an inherited IRA is defined as an IRA that is acquired by another individual 'other than the IRA owner's spouse' as a result of death. [IRC 498(d)(3)(C)(ii).] So, by definition, a surviving spouse is not treated as an inheritor of an IRA.
- **Distribution to Trust:** The Regulations add a few more details (requirements) to these basic rules and exceptions. The Regulations provide: *"In order to make this election, the [surviving] spouse must be the sole beneficiary of the IRA and have unlimited right to withdraw amounts from the IRA."* [1.408-8(c)(1).] This Regulation goes a bit further when it provides: *"If a trust is named as beneficiary of the IRA, this requirement is **not satisfied**, even if the surviving spouse is the sole beneficiary of the trust."*

IRS Rulings: The IRS found that the widow could move her late husband's IRA into her own IRAs without immediate taxation, and in doing so, it ignored the decedent's estate as the default beneficiary of his IRA. The specific rulings that the IRS provided were as follows:

- The widow will be treated for purposes of the Tax Code as the distributee of the proceeds of her deceased husband's IRA. [IRC 408(d)(1) and IRC 408(d)(3).]
- As the surviving spouse of the deceased IRA owner, the IRA will **not be treated as an inherited** IRA. [IRC 408(d).]

- The widow is eligible to roll over the distribution of the IRA proceeds (other than amounts that are the decedent's required minimum distribution) to an IRA that is set up and maintained in the widow's own name as long as the rollover of that IRA distribution occurs no later than the 60th day after the date of the distribution is received by the widow as the trustee of the Trust.
- The proposed transactions will be tax-free, and the widow will not be required to include in her gross income the IRA distribution in the year that it is received.
"Except in the case of a rollover to a Roth IRA, [the widow] will not be required to include in gross income for federal income tax purposes for the year in which the distribution of the IRA and subsequent rollover is made, any portion of the amounts from the received by the Trust and timely rolled over into one or more IRAs set up and maintained in [the widow's] name."

Conclusion: The Regulations expressly prevent a surviving spouse from simply electing to treat the deceased spouse's IRA as his/her own when an estate or Trust is the named, or becomes, the *default* beneficiary. [Regulation 1.408-8(c)(1).] This then often leads to an elaborate workaround like this PLR which ultimately permitted a tax-free rollover. Note, though, that to achieve this outcome, the surviving spouse had to: (i) be the sole Personal Representative of her late husband's estate; and (ii) be the sole Trustee of his Trust; and (iii) as the sole fiduciary of both the probate estate and the Trust, had to possess the sole discretion to distribute the IRA proceeds to herself. If all those hurdles are met, only then will the IRS generally view the surviving spouse as the effective individual for whose benefit the IRA is maintained. Again, one more reason to keep IRA beneficiary designations current and steer clear of *default* beneficiary designations.

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