SECURE ACT 2.0

Retirement Assets in Estate Planning & Administration

SURVIVING SPOUSE
(DID NOT R/O TO SPOUSAL IRA)

AFTER DECEDENT'S RMD DATE

RMD: *GREATER* of

(i) Spouse's Life Expectancy – Uniform Lifetime Table

(ii) Decedent's ghost life expectancy.

Terminal Distribution - *EARLIER* of:
(i) final year of Spouse's single life expectancy
(ii) 10th anniversary of Spouse's death

BEFORE DECEDENT'S RMD DATE

Distributions start *LATER* of:
(i) year of Decedent's RMD date;
(ii) year after Decedent's year of death.

RMD: Spouse's Life Expectancy – Uniform Lifetime Table

Terminal Distribution - *EARLIER* of:
(i) final year of Spouse's single life expectancy
(ii) 10th anniversary of Spouse's death

DECEDENT DIED BEFORE RMD DATE; SURVIVING SPOUSE DIES BEFORE DECEDENT'S RMD DATE (Decedent b. 1960, died 2025; Spouse died 2030)

<u>Surviving Spouse Designated Beneficiaries</u>

RMD: None
Terminal Distribution: 10th anniversary of Surviving Spouse's death

<u>No Designated Beneficiary</u>

Default Beneficiary = Surviving Spouse's Estate
Terminal Distribution: 5th anniversary of Surviving Spouse's death

CONDUIT TRUST FBO SPOUSE

Conduit Trust: Spouse is sole beneficiary; all distributions from Retirement Account to Trust to Spouse

Remainder Beneficiaries of Conduit Trusts are DISREGARDED

Designated-Beneficiary Trust and Spouse is Eligible Designated Beneficiary

Life Expectancy Payout – Uniform Lifetime Table

Terminal Distribution – EARLIER of:
(i) Spouse's single life expectancy
(ii) 10th anniversary of Spouse's death

TO CHILDREN OUTRIGHT

Spouse predeceased – Conduit Trust not funded.

Descendants by right of representation, outright: All 3 children survive (30s and 40s).

Establish separate accounts for children by 12/31 of year after death.

DECEDENT DIED AFTER RMD DATE

10-year payout

RMD Year 1 – 9: child's life expectancy

Terminal Distribution: Year 10

If D/CI: life expectancy payout

DECEDENT DIED BEFORE RMD DATE

10-year payout

NO RMD Year 1 – 9

Terminal Distribution: Year 10

If D/CI: life expectancy payout

SPRAY TRUST FOR CHILDREN UNTIL AGE 35

John (74) died in 2025; Abby (28), Bobby 2 (25), Kirby 3 (17). No grandchildren.

1. Trustee's discretion until youngest is age 35; then outright to children
2. Child's descendants, by right of representation, w/trust until age 25
3. Child's living siblings and then their descendants
4. John's siblings (Ed, oldest, age 57)
5. Charities

Accumulation Trust: Distributions from Retirement Account to Trust can accumulate in trust

Primary Beneficiaries: Abby Bobby Kirby

Remainder Beneficiaries: John's siblings

Disregard Charities (second tier - they take only if other residuary beneficiaries who take outright are dead)

Designated Beneficiaries, one minor-Eligible Designated Beneficiary

Payout period: Year Kirby turns Age 21 + 10 years = Kirby turns Age 31 (2039)

RMD: Ed's life expectancy

Terminal Distribution: 10th year after no more living minor child

If Kirby dies at Age 19 (in in 2027): 100% withdrawal in 2037

WHAT IF CHARITIES ARE COUNTABLE REMAINDER BENEFICIARIES AND NOT DISREGARDED? (JOHN'S SIBLINGS NOT NAMED)

Primary Beneficiaries: Abby, Bobby, Kirby

Remainder Beneficiaries: Charities

NON-DESIGNATED BENEFICIARY TRUST

Decedent died AFTER RBD:	RMD: ghost life expectancy of Decedent Terminable Distribution: final year of ghost life of Decedent
Decedent died BEFORE RBD:	RMD: None Termination Distribution: 5^{th} anniversary of Decedent's death

TRUST FOR CHILDREN/MINOR UNTIL AGE 25
Decedent died before RMD date

1. Children, outright/ Separate trust for each Child until age 25 (HEMS standard), then outright
2. Child's descendants by right of representation
3. My descendants by right of representation
4. Next of kin (Decedent's siblings – all in 50s)
5. Charities

FIONA (AGE 23)

COUNTABLE BENEFICIARIES:

If Fiona dies before Age 25, Ian; if Ian dies before Age 25, next of kin

Primary: Fiona

Remainder Ian siblings charities

Does Primary Beneficiary inherit outright before Age 31 if living? Yes

DISREGARD remainder beneficiaries. ONLY Fiona is countable beneficiary

Designated Beneficiary: 10-year payout; if Fiona is D/CI: lifetime payout

RMD: None

Terminal Distribution: 10th anniversary of Decedent's death (Fiona = Age 33)

IAN (AGE 15)

COUNTABLE BENEFICIARIES:

If Ian dies before Age 25, Fiona; if Fiona dies before Age 25, next of kin

Primary: Ian

Remainder: Fiona siblings charities

Does Primary Beneficiary inherit outright if living at 31? Yes

DISREGARD remainder beneficiaries ONLY Ian is countable beneficiary

Eligible Designated Beneficiary: payout period = until Age 21 + 10 years;
if Ian is D/CI: lifetime payout.

RMD: Ian's life expectancy

Terminal Distribution: 10th anniversary after no more living minor child.

TRUST FOR CHILDREN/MINOR UNTIL AGE 35
Decedent died before RMD date

1. Children, outright/ Separate trust for each Child until age 35 (HEMS standard), then outright
2. Child's descendants by right of representation
3. My descendants by right of representation
4. Next of kin (Decedent's siblings – all in 50s)
5. Charities

<u>FIONA (AGE 23)</u>

Does Primary Beneficiary inherit outright before Age 31 if living? NO

COUNTABLE BENEFICIARIES: Fiona Ian siblings

DISREGARD: Charities (second tier)

Designated Beneficiary: 10-year payout

RMD: None

Terminal Distribution: 10th anniversary of Decedent's death (Fiona = Age 33)

<u>IAN (AGE 15)</u>

COUNTABLE BENEFICIARIES: Ian Fiona siblings

DISREGARD: Charities (second tier)

Eligible Designated Beneficiary: payout period = Age 21 + 10 years

RMD: Oldest aunt or uncle's life expectancy

Terminal Distribution: earlier of 10th year of Ian turning 21 or his death

APPLICABLE MULTI-BENEFICIARY TRUST/ SHARE FOR D/CI TO SNT

All to my niblings outright or their descendants b/r/r, but share for George to his Standalone SNT

SNT: FBO George for life, fully discretionary; then to Charities

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COUNTABLE BENEFICIARIES:

Niblings beneficiaries of George's SNT: George and Charities

COUNT AS DESIGNATED BENEFICIARY: Charities (other than donor advised funds and private foundation)

PRACTICE TIPS

Directly designate charities as beneficiaries of retirement accounts.

ROTH IRA conversion

- Inherited ROTH 401(k) subject to RMD
- Some retirement plans only make lump-sum payments; transfer to inherited IRA
- Reduce double tax effect – estate tax and then income tax on inherited IRA

OK to fund conduit trust FBO spouse – Uniform Lifetime Trust; can delay distributions until Decedent's applicable age; use retirement accounts to fund credit shelter conduit trust FBO spouse.

Disclaimer: Designate spouse as primary beneficiary; trust as contingent beneficiary on beneficiary form.

Separate trust for retirement accounts and other assets (including trusteed IRAs, annuities, charitable remainder trusts).

DRAFTING TIPS

Add young individuals as default beneficiaries before charities (unless SNT).

Prohibit payment of expenses and estate taxes after Sept. 30 year following death.

Prohibit Trustee's discretion to make unequal asset allocations – to permit Separate Account treatment.

All income not same as All distributions from Retirement Accounts.

Include provisions permitting decanting and modification by disinterested trustee.