



ED SLOTT'S IRA ADVISOR

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TAX & ESTATE PLANNING FOR YOUR RETIREMENT SAVINGS

IRS Rules on Retirement Account Disclaimer Plan

Executrix is Allowed to Make a Partial Disclaimer of Retirement Accounts

PLR 201125009
Released by IRS June 24, 2011

In a recent PLR, a retirement account owner died leaving his IRA and 403(b) accounts to his wife. His wife however, died shortly after. Although the wife had received required minimum distributions (RMDs) from the inherited accounts prior to her death, the couple's daughter, who also served as the wife's executrix, sought to disclaim her mother's entire interest in several of the retirement accounts, as well as a partial interest in another. IRS granted the ruling following the guidance it first issued in Revenue Ruling 2005-36.

Facts of the Case

"Albert" and "Sue" were a married couple who had engaged in some

relatively sophisticated estate planning prior to their deaths. Albert died first and, at the time of his death, Albert's assets included a traditional IRA account and three 403(b) accounts. The primary beneficiary of each of Albert's retirement accounts was Sue and the contingent beneficiary of the accounts, should Sue survive Albert and disclaim her interest in the retirement accounts, was a disclaimer trust created under Article IV of Albert's will.

Under that trust, Sue would have received the annual income, and, in the trustee's discretion, could have received portions of the trust's principal as well. In the event however, that Sue predeceased Albert, the beneficiaries of Albert's retirement accounts were

his living children, per stirpes.

Prior to his death, Albert had been receiving RMDs (he was older than 70½) and had set each of his accounts up to automatically distribute his RMDs quarterly to a joint bank account that he and Sue maintained. After his death,

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Westin Jersey City New York City Metropolitan Area April 23-24, 2012

