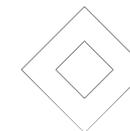
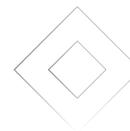
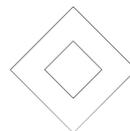
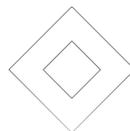
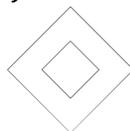
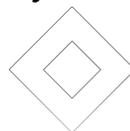
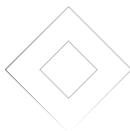
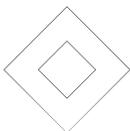




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# **Retirement Account Planning**

**Daryl J. Miller, Esq.  
Law Office of Daryl J. Miller, Esq.  
A Professional Law Corporation  
1300 Quail Street, Suite 101  
Newport Beach, California 92660  
(949) 955 3570  
[daryl@lawofdjm.com](mailto:daryl@lawofdjm.com)**



## "Ask First!"

This form is to be filled out by any person who is offering legal, financial, retirement, insurance, accounting, estate, long-term care or similar planning services. Respond to ALL categories completely; sign and date at the bottom of the page.

Ⓞ **MY EDUCATION-** I have achieved the following level of education (check HIGHEST level achieved):

<input type="checkbox"/> Some High School	<input type="checkbox"/> High School Diploma	<input type="checkbox"/> Bachelors Degree
<input type="checkbox"/> GED	<input type="checkbox"/> Some College	<input checked="" type="checkbox"/> Masters or other Advanced Degree

Ⓞ **MY CREDENTIAL(S)-** I have the following specialized credential(s) and training (examples: CFP, ChFC, CLU, CPA, JD, MBA, years of relevant experience):

Stanford University - B.A., Economics (Quantitative)
Santa Clara University School of Law- J.D., Law Review and Moot Court - in practice as CA lawyer for 25 years

Ⓞ **MY RELEVANT LICENSE(S)-** I have the following license(s) giving me the legal authority to provide the services I am offering to you (examples: bar license (attorney); securities license; insurance license):

License Type	Covers What Activities	Issued By	License No.
Bar License (Attorney)	Practicing Law in State of California	State Bar of CA	176176

Ⓞ **LEGAL SERVICES-** (Check ONE):

- I DO NOT practice law, and the services I am offering to you do not involve practicing law.
- I DO practice law, and have an active license to practice law in California.
- I DO practice law, but DO NOT have an active license to practice law in California. I am, however, under the supervision of the following attorney who has an active license to practice law in California:

Name of attorney:	Telephone:
Address:	

Ⓞ **OUR BUSINESS RELATIONSHIP-** Check TRUE or FALSE:

- True /  False: In our business relationship, I will at all times serve as a fiduciary and put your interests before my interests and those of my employer.

Ⓞ **MY COMPENSATION-** I will be paid in the following way (commission, fee, salary, etc.), by the named person or company, in connection with the services I am offering to you:

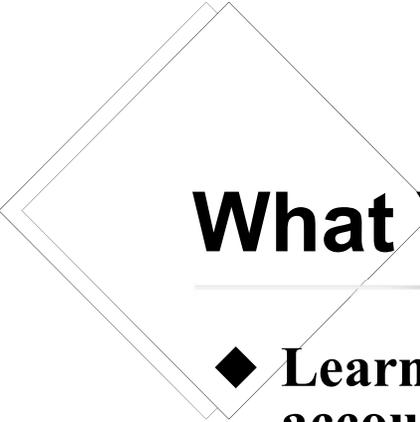
Way(s) I'll Be Paid	Payment Will Be Made By (name each person or company)
Fee per Legal Service Agreement	Client

Ⓞ **FINANCIAL PRODUCTS / AFFILIATED ORGANIZATIONS-** Check TRUE or FALSE:

- True /  False: I offer or sell annuities, insurance, mutual funds or other financial products; or I am, or my employer is, affiliated with a person or organization that offers or sells annuities, insurance, mutual funds or other financial products.

Ⓞ **I certify under penalty of perjury that the responses herein are true to the best of my knowledge.**

Date: 9/16/2021	Business Name: Law Office of Daryl J. Miller, Esq. JAPLC
Signature: 	Address: 1300 Quail St., Ste. 101, Newport Beach, CA 92660
Print Name: Daryl J. Miller	Telephone: 949 955 3570



# What You Will Learn

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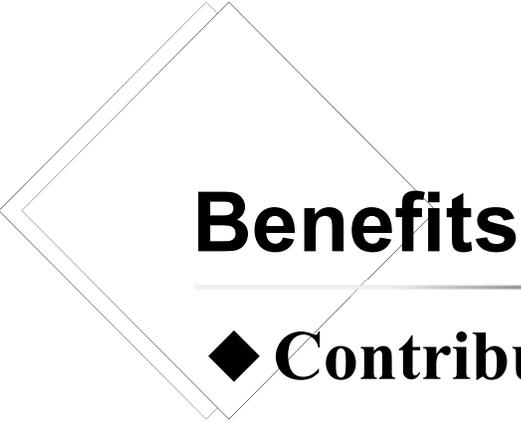
- ◆ **Learn the latest rules that affect retirement accounts**
  - **SECURE Act-Enacted December 20, 2019**
  - **CARES Act-Enacted March 27, 2020**
- ◆ **How to calculate your required minimum distributions**
- ◆ **Options for choosing beneficiaries for your retirement accounts**
- ◆ **Is the “stretch” dead?**
- ◆ **Information about Roth IRAs**

# What Are We Talking About

---

## ◆ Retirement accounts include:

- IRAs (SEP, SAR SEP, Simple, Etc.)
- 401(k)s
- 403(b)s
- 457s
- Keoghs
- Pension Plans (Defined Benefit Plans, Profit Sharing Pension Plans, ESOP, etc.)
- Roth IRAs (Different rules)



# Benefits

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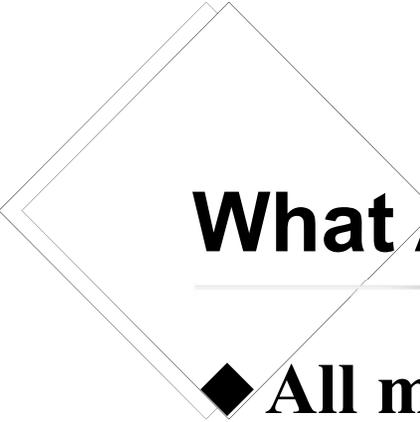
## ◆ Contributions reduce taxable income

- **New Rule: SECURE Act-Age limitation on contributing to an IRA eliminated. Old Rule was age 70 1/2. Must have earned income.**

## ◆ Contributions grow tax deferred while inside account-No income tax or capital gains tax

## ◆ Potential significant compounding effect

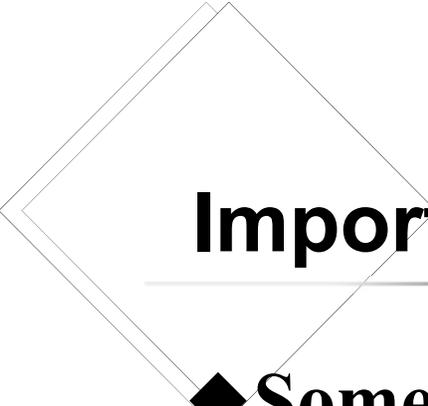
## ◆ Amount of money in retirement accounts?



# **What About Uncle Sam?**

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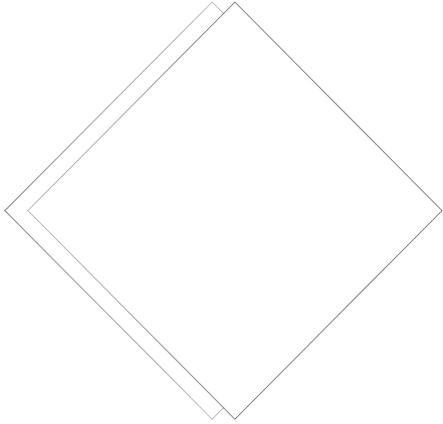
- ◆ **All money in these accounts are “pre tax dollars”**
  - **The contributions as well as the growth of these retirement accounts have not been taxed**
- ◆ **Do you think the IRS still wants their share? Even if you die?**
  - **SECURE Act**
- ◆ **Not tax free-Only a tax deferral**



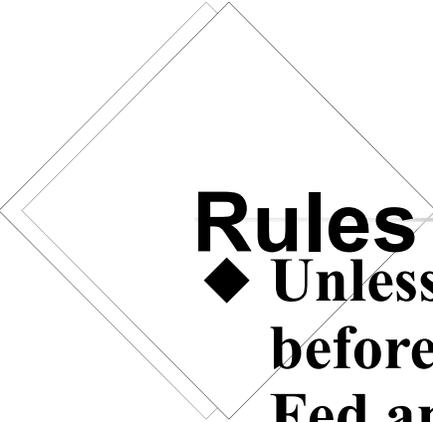
# **Important Part of Estate Planning**

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- ◆ **Sometimes retirement accounts can be the largest asset of a person's estate**
- ◆ **Often missed or overlooked in estate planning**
- ◆ **Estate plan needs to address retirement accounts**



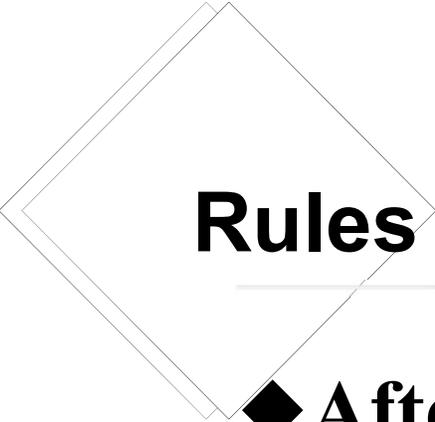
# **Rules During Life**



## **Rules During Life**

◆ **Unless an exception applies, withdrawals before age 59 ½ are subject to a 12.5% (10% Fed and 2.5% CA) early withdrawal penalty in addition to income tax**

- **No income tax has been paid on these assets**
- **New Rules:**
  - **CARES Act-2020 Coronavirus related withdrawals of up to \$100,000**
  - **Consolidated Appropriations Act-2021 Qualified Disaster Distribution**



## **Rules During Life**

---

- ◆ **After age 59 ½ but before age 72 (not 70 ½), you may, but you are not required to, make withdrawals**
- ◆ **No penalty but withdrawals are still subject to income tax**
- ◆ **Get a 1099-R for withdrawals**



# **Lifetime Required Minimum Distributions**

---

- ◆ **Starting at age 72 (not 70 ½) the IRS requires you to withdraw or distribute part of the retirement account each year**
  - **New Rule: SECURE Act- Required beginning date is the year you turn age 72**
- ◆ **Referred to as RMD**
- ◆ **No penalty but withdrawals/ distributions are still subject to income tax**
- ◆ **IRS says you have deferred long enough**

# Required Beginning Date

---

- ◆ **With limited exceptions, RMD must start in the year you turn 72**
  - **CARES Act-RMD was not required for 2020-Must do 2021 RMD**
- ◆ **RMD required by 12/31 of each year**
- ◆ **First year rule: Can delay distribution until April 1 of year following the year you turn 72**
  - **Watch out for two distributions in same year**
  - **May push you into higher income bracket/taxation of social security benefits**

# Required Minimum Distribution

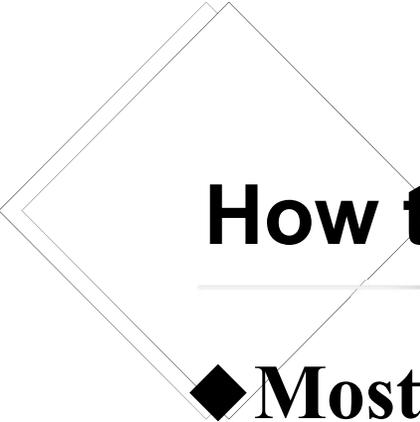
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## ◆ Can always take more

- Does not give you “credit” for future years

## ◆ 50% penalty

- IRS is serious about getting its share!



## **How to Calculate RMD**

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- ◆ **Most banks and brokerage firms do the calculation for you and send you a letter**
- ◆ **You can do the calculation yourself using an IRS table**
- ◆ **Must recalculate each year**

# Required Minimum Distribution (RMD)

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$$\begin{array}{c} \text{PRIOR YEAR} \\ \text{12/31} \\ \text{ACCOUNT} \\ \text{BALANCE} \end{array} \div \begin{array}{c} \text{LIFE} \\ \text{EXPECTANCY} \\ \text{DIVISOR} \\ \text{FROM TABLE} \end{array} = \begin{array}{c} \text{RMD} \end{array}$$

# Uniform Table

---

<b>Age</b>	<b>Divisor</b>	<b>Age</b>	<b>Divisor</b>
<b>70</b>	<b>27.4</b>	<b>79</b>	<b>19.5</b>
<b>71</b>	<b>26.5</b>	<b>80</b>	<b>18.7</b>
<b>72</b>	<b>25.6</b>	<b>81</b>	<b>17.9</b>
<b>73</b>	<b>24.7</b>	<b>82</b>	<b>17.1</b>
<b>74</b>	<b>23.8</b>	<b>83</b>	<b>16.3</b>
<b>75</b>	<b>22.9</b>	<b>84</b>	<b>15.5</b>
<b>76</b>	<b>22.0</b>	<b>85</b>	<b>14.8</b>
<b>77</b>	<b>21.2</b>	<b>86</b>	<b>14.1</b>
<b>78</b>	<b>20.3</b>	<b>87</b>	<b>13.4</b>

# Required Minimum Distribution (RMD)

---

**\$100,000**

**÷**

**25.6**

**=**

**\$3,906.25**

<b>Age</b>	<b>Divisor</b>	<b>Withdrawal Rate %</b>	<b>Age</b>	<b>Divisor</b>	<b>Withdrawal Rate %</b>
<b>70</b>	27.4	3.65%	<b>85</b>	14.8	6.76%
<b>71</b>	26.5	3.77%	<b>86</b>	14.1	7.09%
<b>72</b>	25.6	3.91%	<b>87</b>	13.4	7.46%
<b>73</b>	24.7	4.05%	<b>88</b>	12.7	7.87%
<b>74</b>	23.8	4.20%	<b>89</b>	12	8.33%
<b>75</b>	22.9	4.37%	<b>90</b>	11.4	8.77%
<b>76</b>	22	4.55%	<b>91</b>	10.8	9.26%
<b>77</b>	21.2	4.72%	<b>92</b>	10.2	9.80%
<b>78</b>	20.3	4.93%	<b>93</b>	9.6	10.42%
<b>79</b>	19.5	5.13%	<b>94</b>	9.1	10.99%
<b>80</b>	18.7	5.35%	<b>95</b>	8.6	11.63%
<b>81</b>	17.9	5.59%	<b>96</b>	8.1	12.35%
<b>82</b>	17.1	5.85%	<b>97</b>	7.6	13.16%
<b>83</b>	16.3	6.13%	<b>98</b>	7.1	14.58%
<b>84</b>	15.5	6.45%	<b>99</b>	6.7	14.93%

# **Lifetime Required Minimum Distributions**

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## **◆ Life Expectancy Divisor**

- **Uniform table (Unless spouse-beneficiary is 10 years younger or less)**
- **IRS proposed new tables-Effective for 1/1/22**
  - **Not a big change but must use the right table in 2022**
- **IRS Publication 590-B (Updated March 2021)**



## **More Than One IRA?**

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- ◆ **If more than one IRA, RMD must be calculated separately for each IRA account but cumulative RMD can be taken out of one account**



## **Qualified Charitable Distribution**

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- ◆ **The Qualified Charitable Distribution (QCD) rules allow a taxpayer to distribute money from her IRA and gift it directly to charity without including the IRA distribution in her income**
- ◆ **The Qualified Charitable Distribution is now permanent!**
- ◆ **More consideration needs to be given to this strategy under the new tax law**



# Qualified Charitable Distributions

---

- ◆ **Without the Qualified Charitable Distribution rules, a taxpayer who wanted to withdraw money from an IRA and give it to a charity would have to add the distribution to their income (AGI) and hopefully offset that income with the deduction for the gift to the charity**
- ◆ **Issues:**
  - **No deduction for taxpayers who do not itemize**
    - **This may be most of us under new tax law**
  - **Including the income can affect the taxability of Social Security benefits and increased Medicare premiums**
  - **Including the income can affect several other tax breaks related to AGI such as deductions, passive losses, etc.**

# Qualified Charitable Distributions

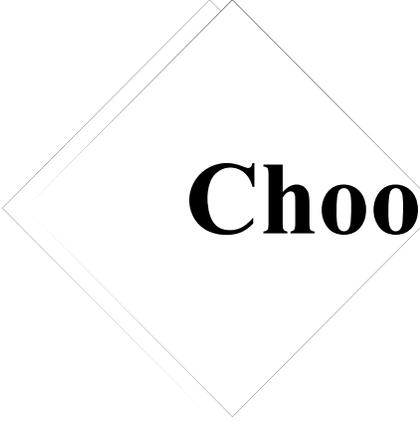
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## ◆ Benefits of the Qualified Charitable Distribution

- The distribution is excluded from your income
- The distributions will count towards your required minimum distribution

## ◆ Rules:

- Limited to \$100,000
- Must be age 70½ or older
- Distribution must be made directly to the charity
- New Rule: SECURE Act-Post 70 ½ deductible contribution must be used up before QCD is allowed



# **Choosing Beneficiaries and Rules After Death**

# Concepts

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- ◆ **Concept 1: During life, you get to pick the beneficiary for your retirement accounts by completing a beneficiary designation form with the institution that holds your retirement account**
  - **Contract to pay at death/No probate**
  - **Change at any time**
  - **The beneficiary designation form controls**
- ◆ **Concept 2: After death, a designated beneficiary can continue to defer income tax until money is distributed/withdrawn**
- ◆ **Concept 3: IRS still wants their share and requires your named beneficiary to withdraw money from the account so the IRS can collect the tax**

# Concepts

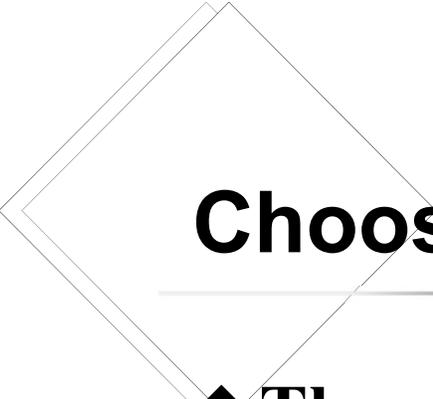
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- ◆ **Concept 4: From a tax standpoint, it is likely preferred that your beneficiary avoid taking a lump sum distribution (Lose tax deferred growth and pay higher taxes)**
  
- ◆ **Concept 5: Generally, the strategy is to try to make the beneficiary's withdrawal period as long as possible**
  - **Before the SECURE Act**
    - **We could often do a STRETCH and create decades of tax deferred growth**

# **SECURE Act**

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- ◆ **Eliminates the stretch for retirement accounts inherited after December 31, 2019**
- ◆ **Basically, the SECURE Act requires retirement accounts, including ROTH IRAs, to be distributed within 10 years of death of the account owner**
- ◆ **Exceptions (EDB):**
  - **Surviving spouse**
  - **A child of the taxpayer who has not reached the age of majority**
  - **A disabled or chronically ill individual**
  - **An individual who is not more than 10 years younger**



# **Choosing Beneficiaries**

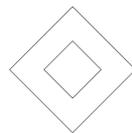
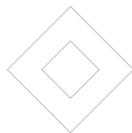
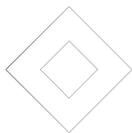
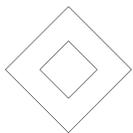
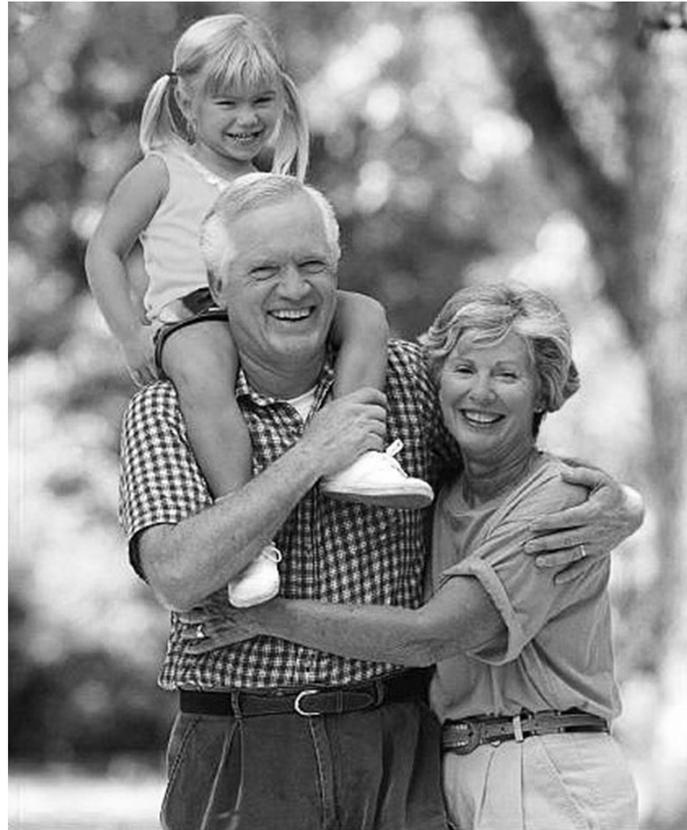
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- ◆ **The rules/options for distribution of the retirement account will depend on who you designated as your beneficiary**
- ◆ **With this in mind, the selection of beneficiaries is very important**

# 5 Beneficiary Options

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- ◆ Spouse
- ◆ Children, grandchildren, others adults
- ◆ Trust
- ◆ Charity
- ◆ Some or all of the above

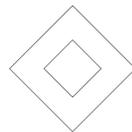
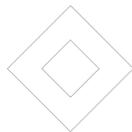
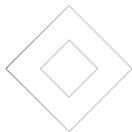
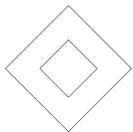
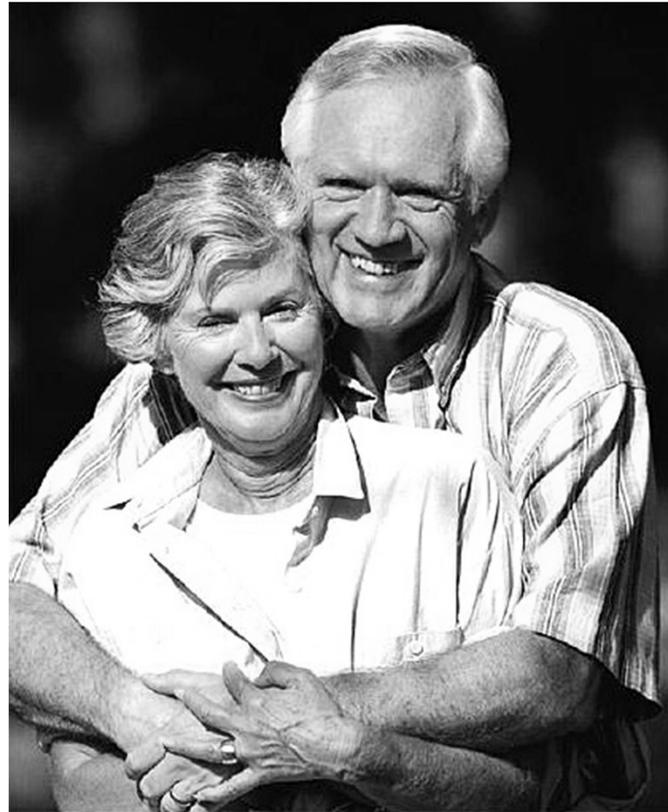


# Option 1. Spouse as Beneficiary

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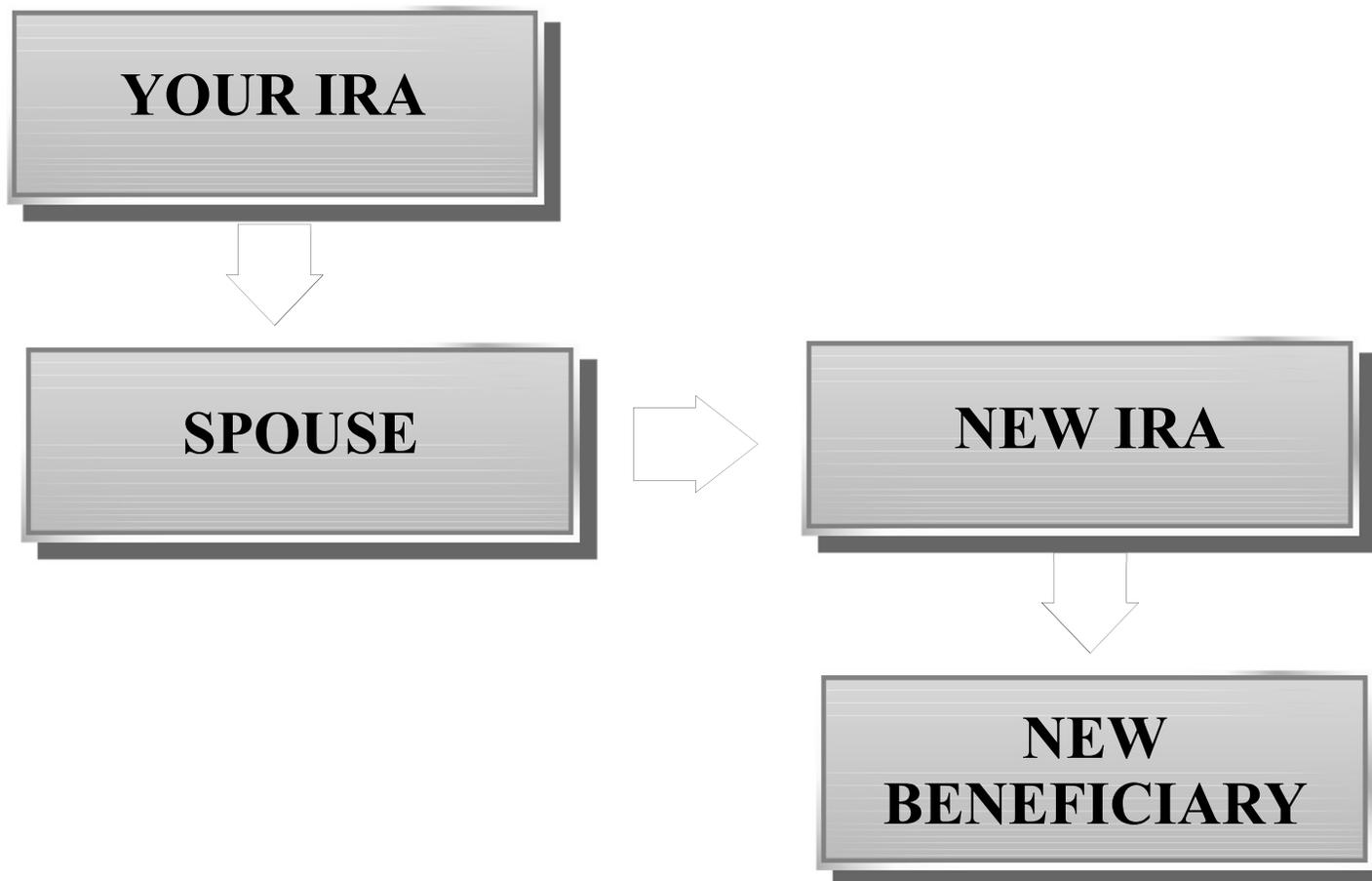
## ◆ Benefits

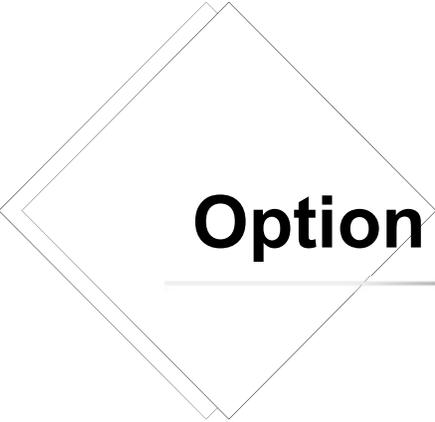
- Money available to spouse
- No 10 year limitation under the SECURE Act
- Special Rule: Spousal rollover option



## Option 1. Spouse as Beneficiary IRA Spousal Rollover Example

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## **Option 1. Spouse as Beneficiary**

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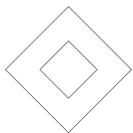
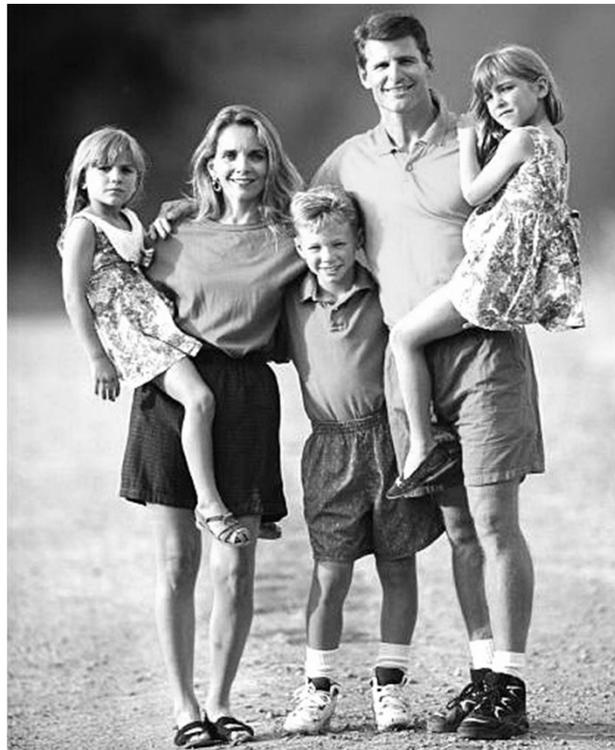
### **◆ Disadvantages**

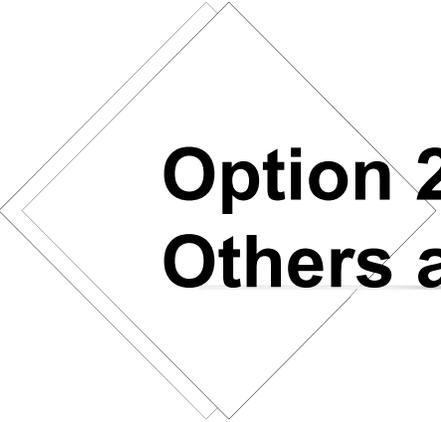
- **Spouse has control of money**
- **Possible issue with a blended family**

## Option 2. Children, Grandchildren, Others as Beneficiary (Adults)

### ◆ Benefits

- **Minor children exempted from 10 year limit until they reach age of majority-then 10 years**
  - **Don't want to name minor children outright**
- **Adult children may have up to 10 years to distribute the account**
  - **Potentially many years of tax-deferred growth**
  - **Manage tax brackets**



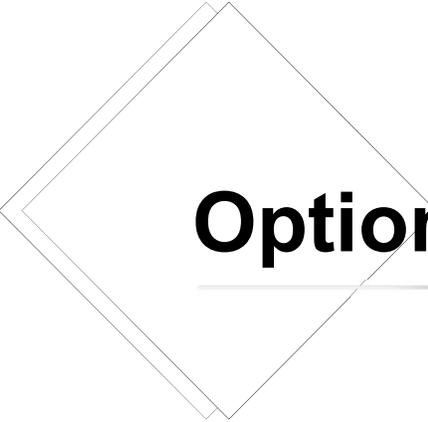


## **Option 2. Children, Grandchildren, Others as Beneficiary (Adults)**

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### **◆ Disadvantages**

- **If child is named as outright beneficiary**
  - **Problematic to name a minor child**
  - **May do a lump sum distribution-Taxes**
  - **Irresponsible spending**
  - **Creditors**



## **Option 3. Trust as Beneficiary**

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- ◆ **Can name a trust as a beneficiary**
- ◆ **Trust must meet certain IRS requirements and include special provision regarding retirement accounts**

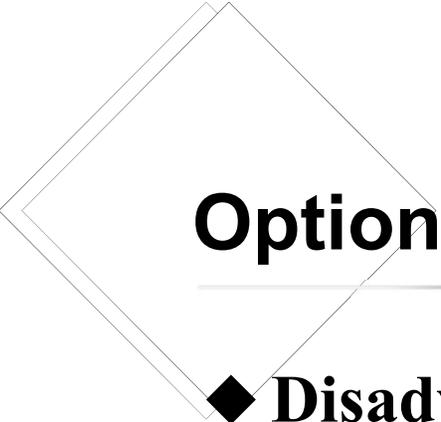


# **Option 3. Trust as Beneficiary**

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## **◆ Benefits**

- **Provides control**
- **Can protect assets from courts, creditors and irresponsible spending**
- **If done properly, can still take advantage of the SECURE Act exceptions:**
  - **Surviving spouse**
  - **A child of the taxpayer who has not reached the age of majority**
  - **A disabled or chronically ill individual**
  - **An individual who is not more than 10 years younger**

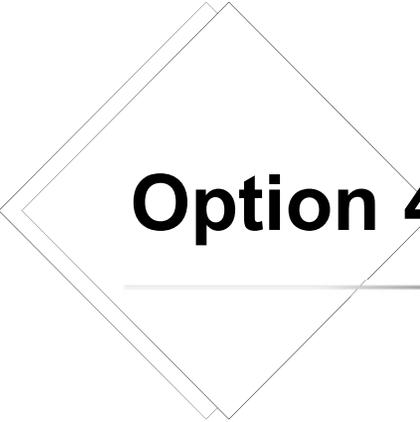


## **Option 3. Trust as Beneficiary**

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### **◆ Disadvantages**

- **No spousal rollover available**
- **Trust must be drafted with proper provisions to qualify for SECURE Act exceptions-Provisions in trusts need to be reviewed after SECURE Act**
- **Higher income tax rates if distributions stay in trust**
- **Administratively complex**
- **Expense**



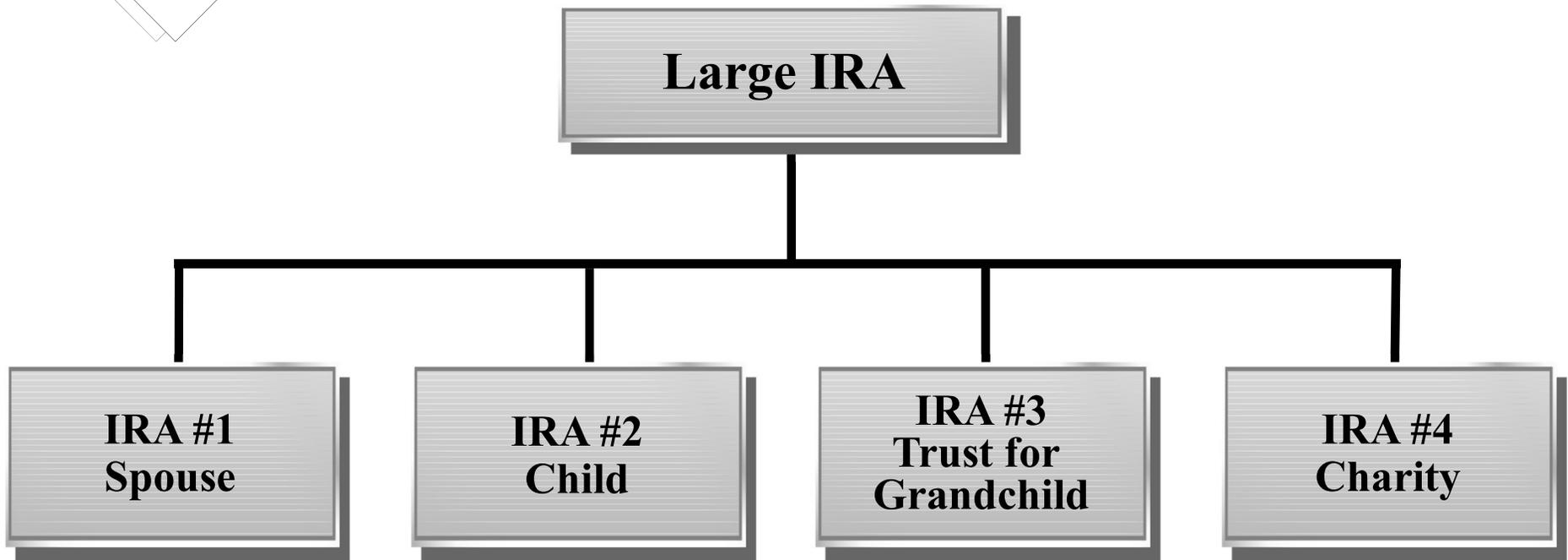
## **Option 4. Charity as Beneficiary**

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### **◆ Benefits**

- **No income taxes**
- **Reduces estate taxes**

## Option 5. Some or All as Beneficiary





# **RESPONDING TO SECURE ACT**

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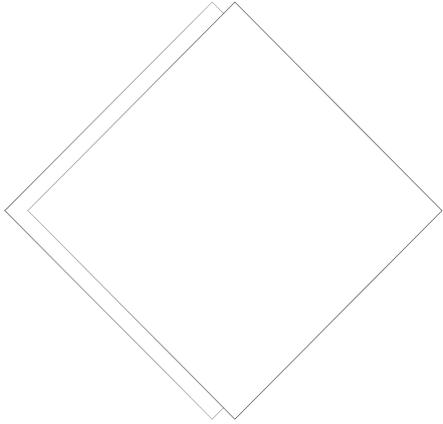
- ◆ **Accept the taxes-Manage tax brackets**
- ◆ **Charitable Remainder Trust**
- ◆ **Insurance**
- ◆ **ROTH Conversions**
- ◆ **Charity**
- ◆ **Spend it**



# Mistakes

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- ◆ **Not naming a beneficiary**
- ◆ **Naming “my estate”**
- ◆ **Naming a minor outright**
- ◆ **Not naming both primary and contingent beneficiaries**
- ◆ **Not keeping beneficiary designations up to date**
- ◆ **Not keeping records of beneficiary designations**
- ◆ **Not considering and/or planning for the income tax issues when selecting beneficiaries (Case by Case)**



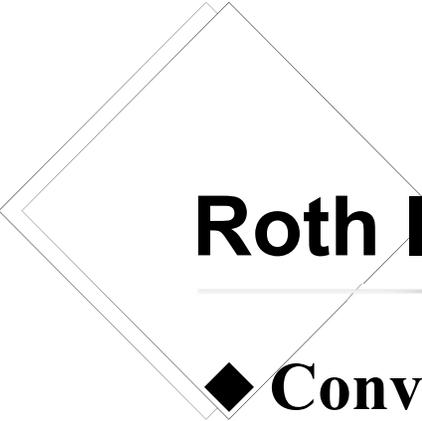
# **Roth IRAs**



# **Benefits of Roth IRA**

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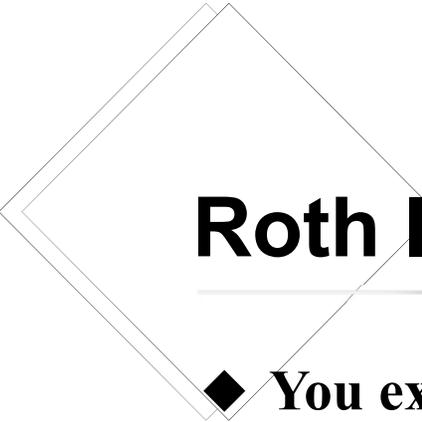
- ◆ **No required distributions during your lifetime**
- ◆ **Can make contributions (if earned income)**
- ◆ **Tax-free growth**
- ◆ **Tax-free distributions to you and beneficiary(ies)**
- ◆ **10 year “stretch” and spousal rollover okay**



# **Roth IRA Conversion**

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- ◆ **Convert traditional IRA and other retirement accounts to a Roth IRA**
- ◆ **Everyone is eligible-No more limitations**
- ◆ **Must pay income taxes on conversion**
- ◆ **Need to do careful analysis to see if it makes sense**
- ◆ **No more recharacterization**
  - **Under new law, conversions done after 1/1/2018 can not be recharacterized**



# **Roth IRA Conversion Factors**

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- ◆ **You expect your tax rate to be higher in retirement**
- ◆ **You do not think you will need the money for living expenses-we want money to stay in the Roth IRA**
- ◆ **Your investment horizon is long enough to benefit from the tax-free growth of a Roth IRA**
- ◆ **You can afford to pay taxes on the conversion using separate funds**
- ◆ **Estate planning objectives**



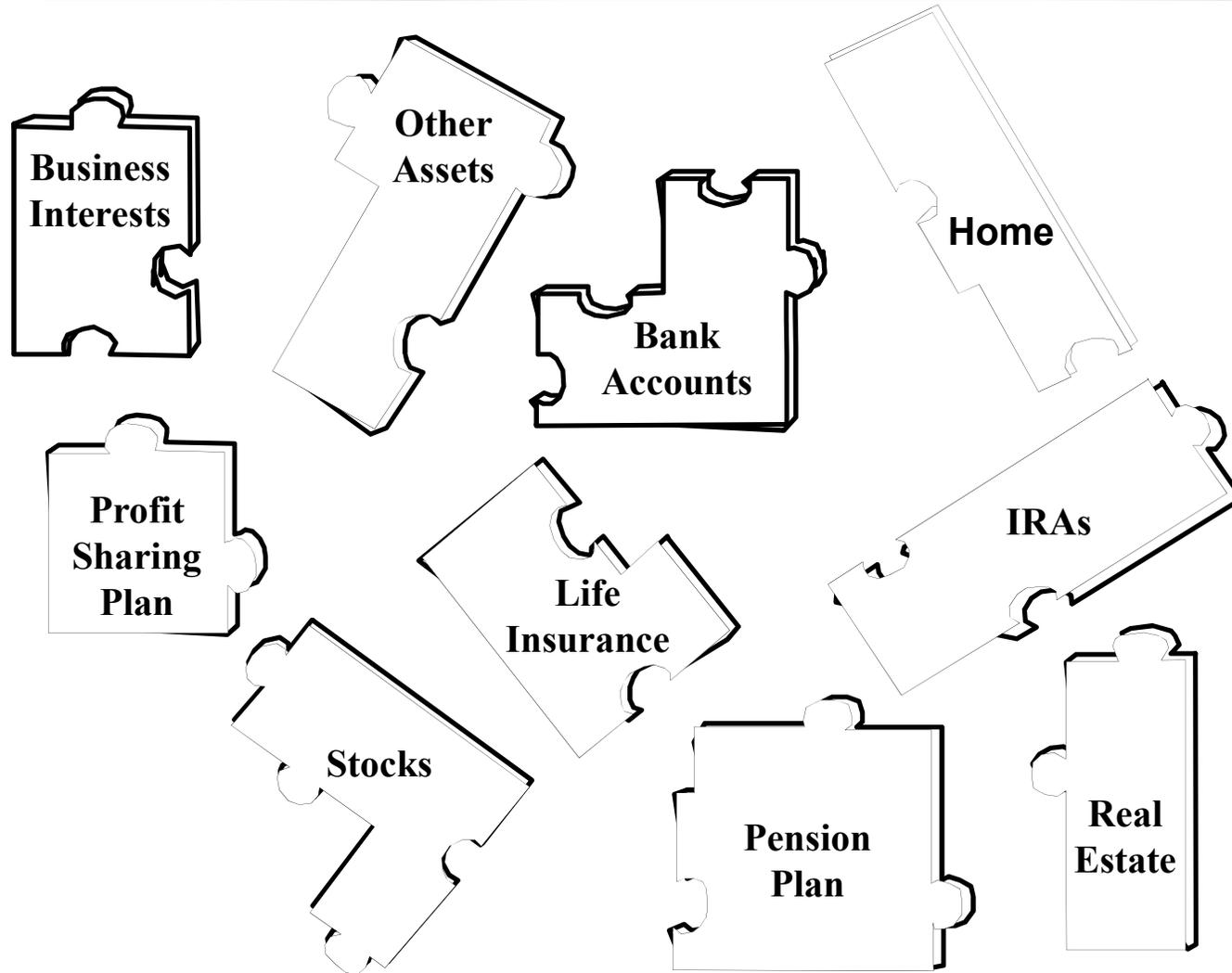
# **Jump Start Your Children's (Grandchildren's) Retirement Fund**

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- ◆ **100% of child's earnings, up to \$6,000/year**
- ◆ **Over 59 1/2 : tax-free withdrawals**
- ◆ **Under 59 1/2 : no taxes or penalties until all contributions withdrawn**
- ◆ **Special breaks for college, home**
- ◆ **Child (Grandchild) has control**

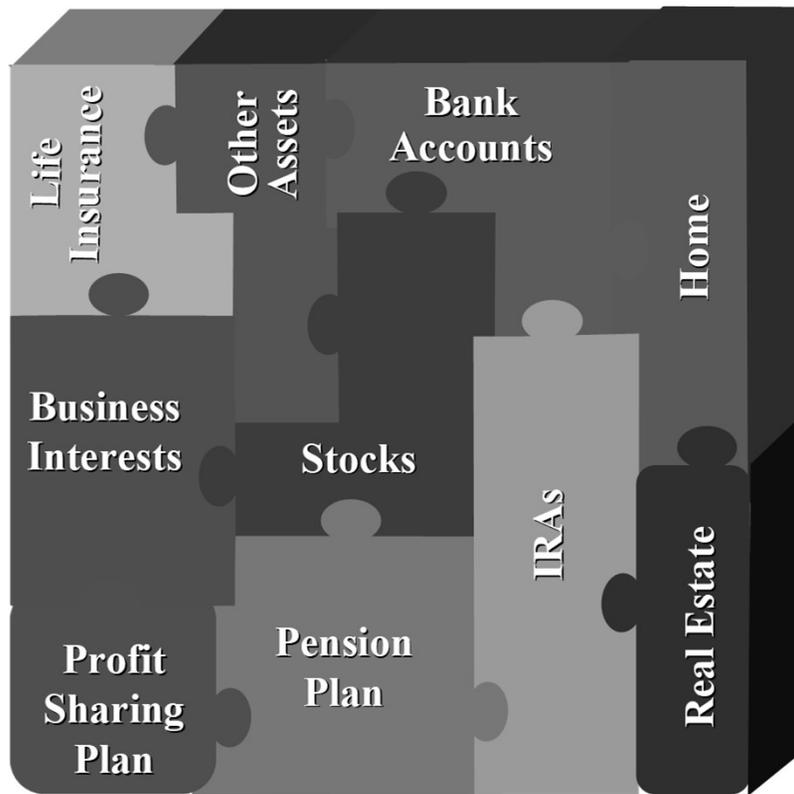
# Estate Plan Components

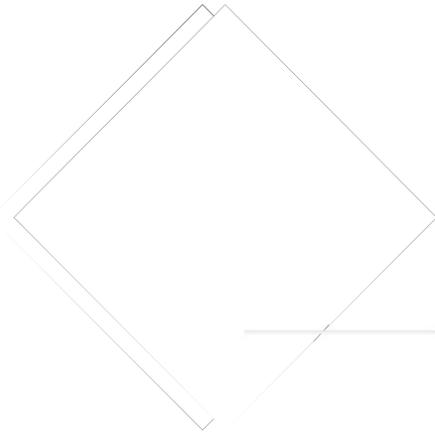
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# Successful Estate Plan

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