When a Spouse Inherits an IRA

Spouses have the most flexibility when inheriting individual retirement accounts ("IRAs"). The basic rules are:

- The spouse may treat the inherited IRA as his/her own (or roll it over into his or her own IRA) or remain the beneficiary on the account.

- The spouse may only treat the IRA as his or her own if he or she is the sole beneficiary. If there are multiple beneficiaries, the account can be separated so the spouse's share is in its own account. When the spouse elects to treat the IRA as his or her own, the IRA is simply retitled as the spouse's IRA.

  As an alternative, the spouse can roll the balance over to his or her own IRA. Since the account is then considered the spouse's, the spouse can then name his/her own beneficiaries. Withdrawals are subject to a 10% federal income tax penalty if the spouse has not reached age 59 1/2 and the spouse must start taking required minimum distributions ("RMDs") at age 70 1/2. RMDs are calculated using the uniform table, which assumes a joint life expectancy with the beneficiary considered 10 years younger.

- If the spouse remains the beneficiary of the IRA and is the sole beneficiary, distributions are required by the later of the year the original IRA owner would have reached age 70 1/2 or by December 31 of the year following the IRA owner's death. If the spouse is not the sole beneficiary, then distributions must begin by December 31 of the year following the IRA owner's death.

  Required distributions are calculated based on the single life expectancy table for beneficiaries. However, a spouse recalculates his or her life expectancy every year by looking up the life expectancy factor on the table. For non-spouse beneficiaries, the beneficiary gets the life expectancy figure from the table in the first year, but in each subsequent year reduces the factor by one year. Since the table assumes a single life expectancy, distributions would be higher than if the spouse treated the IRA as his or her own.

Although lower RMDs are required when a spouse rolls over or treats the IRA as his or her own, there are circumstances when the spouse might want to remain the beneficiary:

- A spouse under the age of 59 1/2 can make withdrawals from the beneficiary account using the life expectancy table, without paying the 10% federal income tax penalty. Once the account is rolled over, withdrawals before the age of 59 1/2would result in a 10% federal income tax penalty.

- A spouse who is significantly older than the deceased IRA owner can delay RMDs by remaining the beneficiary. He or she would not have to take RMDs until the deceased spouse would have reached age 70 1/2, even if the surviving spouse is already past age 70 1/2.

When a Roth IRA is involved, the surviving spouse would normally want to roll the Roth IRA over or treat it as his or her own. Then, the Roth IRA would be treated as his/her own and no distributions would be required during his or her lifetime. If the surviving spouse remains the beneficiary, then distributions would be required as stated above for traditional IRAs.

The Law Office of Eugene Gorrin, LLC
17 Watchung Avenue, Suite 204
Chatham, NJ 07928
973.701.9300
egorrin@gorrinlaw.com
www.gorrinlaw.com