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SUCCESS



Getting IRA Death Proceeds In A Timely Manner



Date: February 27, 2020
Time: 1:00 – 2:30 Eastern
Presenter: Johni Hays
Senior Vice President
Thompson & Associates



RIFT Project

Release

IRA

Funds

Timely



Today's Webinar Presentation

- The problem defined
- Who, what, when, why?
- Steps you can take now
- National work done toward permanent solution



Who and What and When?

Delays and draconian
paperwork with some financial
institutions when paying IRA
death claims to charities



New Procedures to Receive IRA Death Proceeds

- Instead of paying a death claim on the IRA, some IRA custodians require the charity apply for and open a new account first & then they transfer the IRA into it
- Called an Inherited IRA (aka Beneficiary IRA, Stretch IRA)
- In order to establish the new account, the custodian says the charity is their “new customer”
- Enter the Patriot Act (Section 326 - Know Your Customer)



New Procedures to Receive IRA Death Proceeds

- Require personal SSN of certain staff
- Require personal information of staff (e.g., personal financial statements, home address, copy of driver's license, etc.)
- In light of today's serious identity theft crisis, WHY would we send them our personal SSN???
- Don't they know charities have their own EIN?



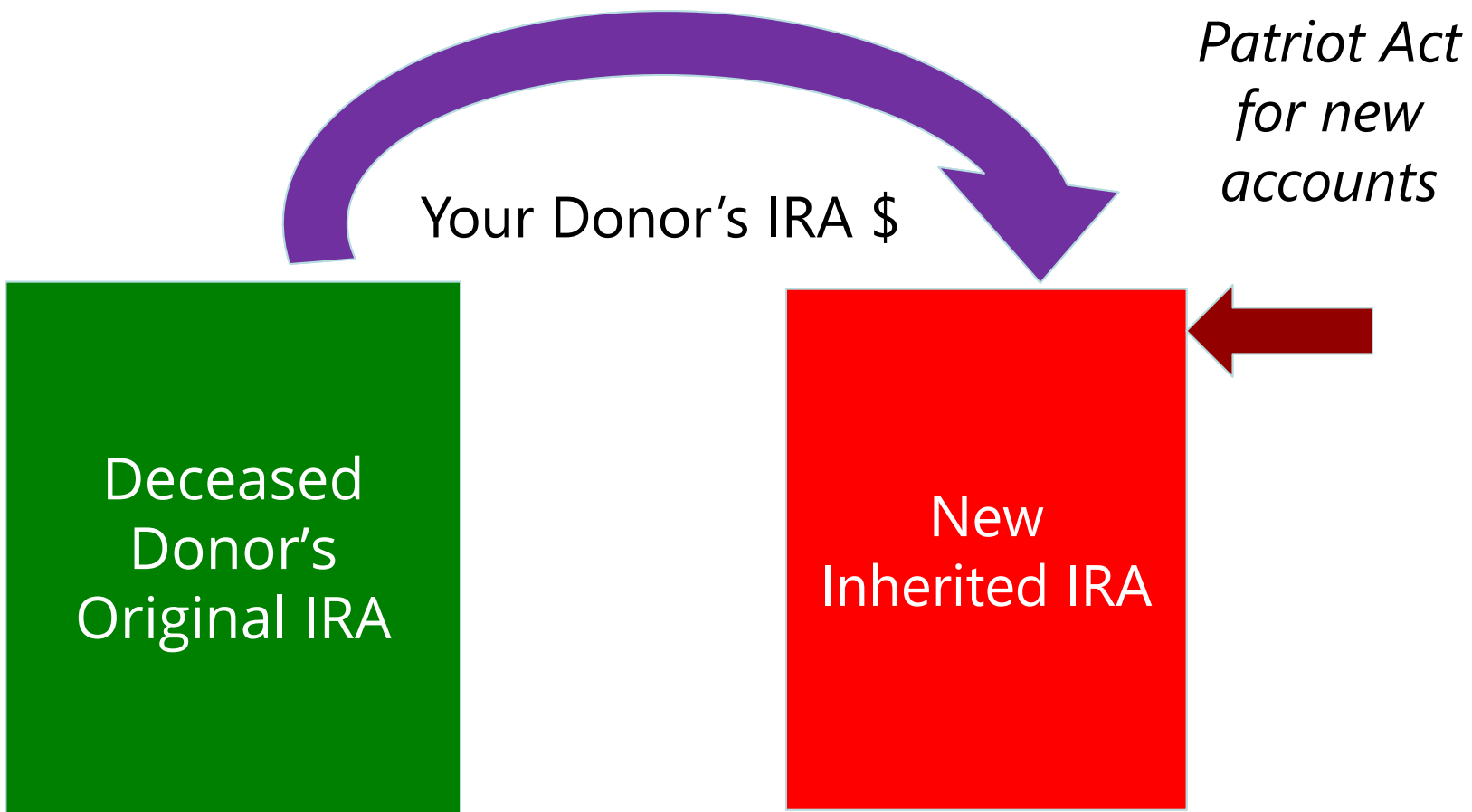
Your Donor's IRA \$

Deceased Donor's Original IRA

New Inherited IRA

Don't Go There!







The Patriot Act

Enacted to prevent terrorism
after 9/11

Is your organization a
“known terrorist?”



Does the Patriot Act Really Apply?

The Financial Crimes Enforcement Network (FinCEN) is the government agency that regulates compliance with the Patriot Act:

“If the beneficiary continues to maintain the account after the passing of the previous customer, the bank should treat them as a customer.”

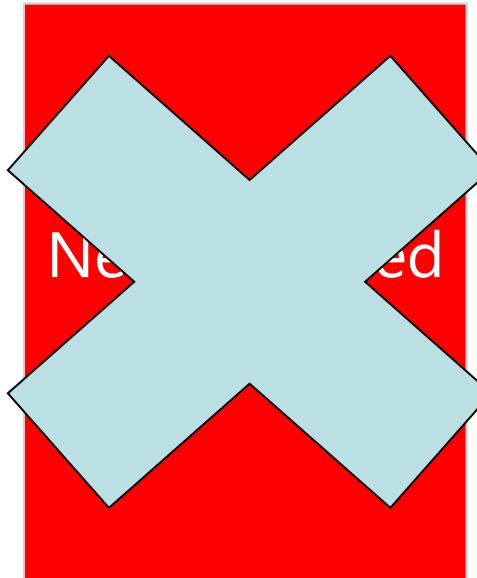
-FinCEN’s Resource Center

6/20/2019



You want
payment
from this
account

Deceased
Donor's
Original IRA



*Don't Go
There!*

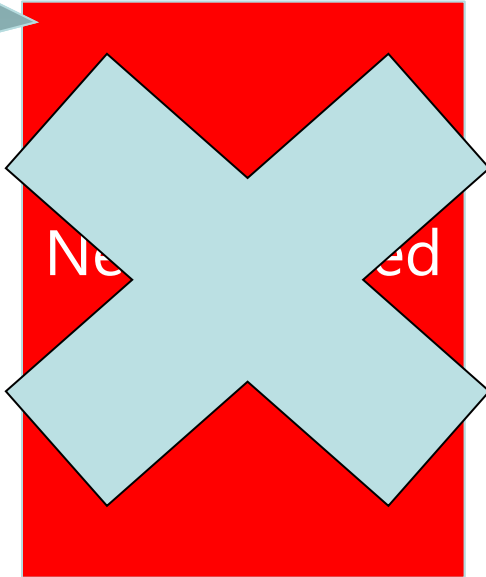




Ask for a manual IRS Form 1099 on this contract

KEY!

Deceased Donor's Original IRA



Don't Go There!





It's Your Choice

You can provide the
information—if
your organization
wants to.



Why is this happening?



Does Your Organization Want to “Stretch?”

Why would any charity want to stretch out the receipt of their donor’s gift?

They don’t!



Overlooked

They never considered charities' needs when they devised their computer systems. They assumed all beneficiaries want to stretch.



Reason or Excuse?

- *Our computer system won't allow it*
- *We can't issue a manual 1099-R (note that's not true!)*
- *Everyone does it this way (not true)*
- *We'll never make an exception*



What Some Custodians Have Said...

*“Just do as we say and
you’ll get your money
faster than
complaining....”*



What Some Custodians Have Said.....

- *“No, we won’t tell you the \$ amount of your IRA death claim.”*
- *“We aren’t going to compromise with you.”*
- *“Let the death claim sit with us until it goes to a statewide unclaimed property fund. Then try to get the money.”*
- *“Go see a judge and get a court order if you don’t like how we do it.”*



Is the Problem Getting Worse?

- Some financial institutions now require a 2nd account for non-IRA accounts
- Some won't even tell you you're a beneficiary in the first place

“If you name organizations as beneficiaries, arrange for someone to notify them of your death. We don't contact beneficiaries after the deaths of Vanguard account owners.”

- Vanguard website 2/12/2020



What Can Your Organization Do Now?



What Can Your Org Do?

- ✓ Imperative: communicate with general counsel of Financial Institution – as the local advisor, agent, clerk, manager, etc., may not have the authority to make the exception you need.
- ✓ Jonathan Tidd recommends your lawyer to their lawyer (i.e., general counsel).



What Do You Say?

- The IRA is a trust - under 408(a)
- The IRA administrator is the trustee of the trust - 408(a)(2)
- The IRA administrator is breaching its fiduciary duties to the trust beneficiary (i.e., the charity)



More of What to Say

- We take the position that IRC Section 408 refers to an individual -- defined as a human. IRC 408 does not allow an IRA to be owned by a charity.
- Send our organization a lump sum check or provide written legal opinion why you won't.



Also Say

The Patriot Act does not apply when the charity does not want to maintain the account and the financial institution is **MANDATING** they open an account just to get paid on the original IRA. Refer them to the FinCen agency for clarification.



Also Say

You realize the custodian may have to create a manually generated IRS Form 1099-R to your nonprofit for the death proceeds.

Let them know you are okay with that.



Put it in Writing

- Write a follow up letter from your General Counsel to their General Counsel
- See Charles Schultz's "A" letter



Nationwide
working on a
permanent solution!



New Nationwide Database

- Database of IRA Administrators
 - ✓ How to work through each IRA custodian's process
 - ✓ Who to contact
 - ✓ What paperwork is required
 - ✓ NACGP has it on their website



Free Access to Database

You don't need to be a member of National CGP
to access the database

www.charitablegiftplanners.org/ira-distribution-resource-center

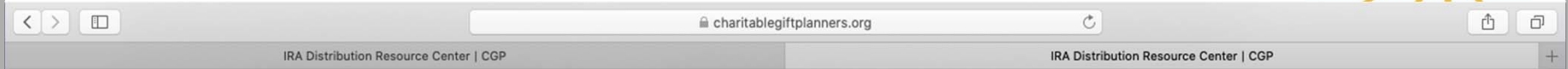


Charitable Beneficiary IRA Distribution Resource Center

In a recent CGP survey 43% of organizations stated they experienced difficulty in collecting beneficiary proceeds from one or more IRA administrators.

In a recent CGP survey 43% of organizations stated they experienced difficulty in collecting beneficiary proceeds from one or more IRA administrators. This is a matter of great concern to nonprofit organizations across the country. Many individuals and organizations are working to improve the timely distribution of beneficiary proceeds from financial institutions. Through awareness, advocacy and the collection of valuable information to assist organizations, they have created a number of resources to expedite distributions and promote change in institutional policy. The goal of the center is to organize the results of their efforts in one location to benefit the entire nonprofit sector.

This center is meant to be dynamic with new resources and information added as they become available. If you have information to share or



Charity IRA Beneficiaries Navigate Stormy Seas to Safe Harbors, Parts 1&2

BY JEFF COMFORT

Used by Permission of Planned Giving Today

[Part 1](#) [Part 2](#)

How Charities May Collect IRA Beneficiary Designations

BY CHARLES SCHULTZ

Used by Permission of Crescendo Interactive, Inc

[Read Now](#)

Collecting IRA Beneficiary Gifts - A Death-Defying Experience

BY JEFF LYDENBERG

Used by Permission of PG Calc

[Read Now](#)

RIFT Project Update: How to Eliminate Delays When Requesting IRA Death Proceeds

BY JOHN HAYS

[Read Now](#)



RIFT (Release IRA Funds Timely) Project

COLLATED BY JOHNI HAYS, JD

The RIFT project is a database of collected materials to assist charitable organizations to effectively file and timely receive IRA beneficiary distributions. Click on the institution you are looking for to access filing information, forms and key contacts.

Disclaimer: Neither the National Association of Charitable Gift Planners or the RIFT Project is responsible for errors in this information. The information is gathered from multiple sources and may change without notification. Should you see data that is incorrect or have knowledge of changes to the information posted, please share that information in the comment section.

Ameriprise

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Charles Schwab

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Fidelity

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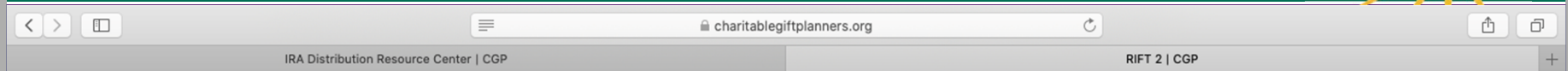
LPL Financial, LLC

[Learn More](#)

Merrill Lynch

Morgan Stanley

Northern Trust



Wells Fargo

As of Sept. 3, 2019, Wells Fargo says they automatically (without specifically asking for an exception) allow charities to receive their IRA proceeds without setting up an Inherited IRA. Therefore, nonprofits should not need to send either Charles Schultz letter.

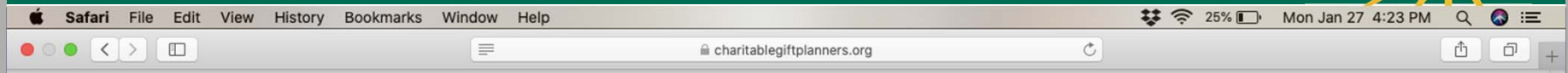
Contact, if needed:
Douglas R. Edwards, Interim General Counsel
Wells Fargo Headquarters
420 Montgomery Street
San Francisco, CA 94104
800-869-3557

As of October 2019, Wells Fargo needed an IRA Beneficiary Claim Form (check the box in Section 3 for a Lump Sum). Need assistance? Contact Malissa S. Welch, Senior Client Associate, 208-363-7639, Malissa.welch@wfadvisors.com

Membership



Login



Morgan Stanley

They do not require a separate Inherited IRA account be established.

They need the following forms:

- [Affidavit of Domicile form](#)
- Copy of the death certificate
- [IRA distribution form](#)

They don't need a corporate resolution.

They can typically process this in 10 days or so once they've received the appropriate paperwork.

Northern Trust

A colleague with Northern Trust says, if it's a Trusteed IRA, Northern Trust does not require the charity to open an inherited IRA to receive distribution from the IRA on the IRA owner's death. In that case, Northern Trust would ask the charity to provide:

- (i) a letter of direction (with transfer instructions),
- (ii) evidence that the person giving the instructions has authority to act on behalf of the charity, and
- (iii) Form W-9.

This colleague also notes, however, that with custodial IRAs, there is a different procedure depending on whether the custodial IRA is held with Northern Trust's banking division or with their brokerage division. The banking



Which Custodians Don't Require An Inherited IRA

- As of 2/12/2020:
 - ✓ BNY Mellon
 - ✓ Merrill Lynch
 - ✓ Morgan Stanley
 - ✓ TD Ameritrade
 - ✓ UBS
 - ✓ US Bank
 - ✓ Wells Fargo



Which Custodians Will Make An Exception

- As of 2/12/2020: You'll need to ask for an exception each time--but first be sure to get the most up-to-date RIFT information as each has different requirements:
 - ✓ Charles Schwab
 - ✓ Edward Jones
 - ✓ Vanguard
 - ✓ Ameriprise requires an Inherited IRA but will waive the personal information requirement

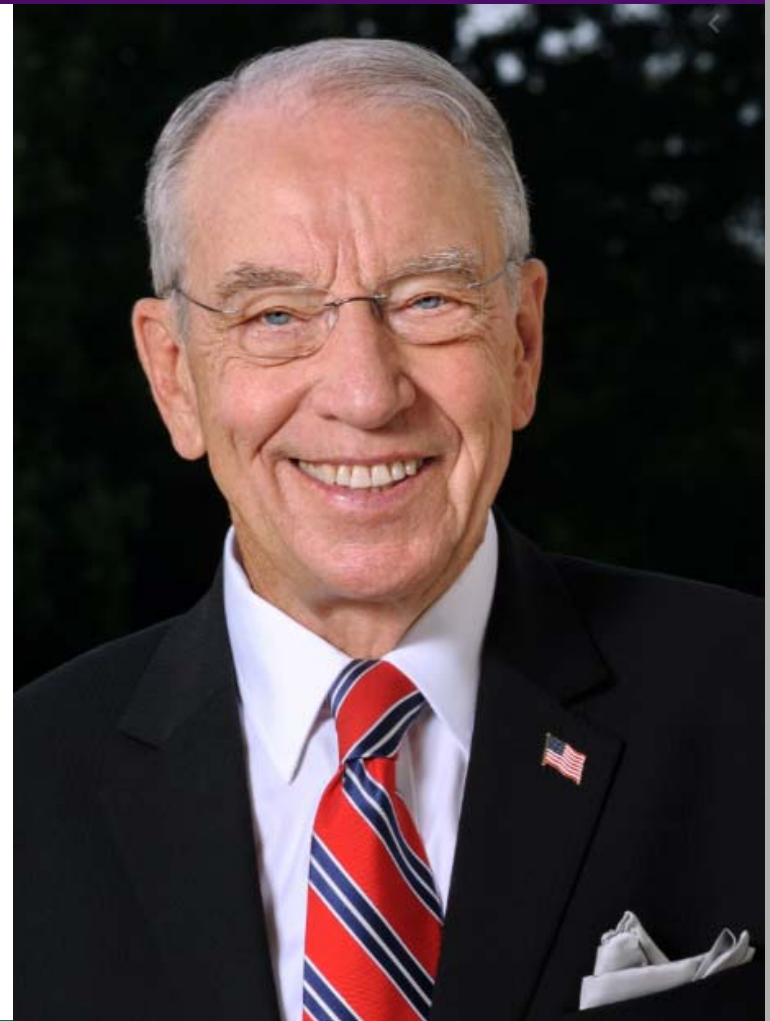


Other National Efforts

Chair of
Senate Finance Committee

SFC investigator is
working for us!

Stay tuned!





Other National Efforts

- Trying to meet with Fidelity one-on-one
- ACTEC Employee Benefits meeting in March - on their agenda
- Litigation
- PLR 201943020 – not the desired result



- Can you help?
- Would your organization write to Senator Grassley?
- Senator@grassley.senate.gov





A Powerful Article – Share with Your Legal Counsel

Jonathan Tidd's article in
Trusts and Estates magazine

“Giving or Leaving IRA Assets to Charity....Some
Issues and Problems”

September 21, 2018



Take Action!

- Contact Senator Grassley/Senate Finance Committee – share your organization’s frustrations (Senator@grassley.senate.gov)
- Read the articles from Jonathan Tidd and on NCGP’s website
- Use Charles Schultz’s letters



Take Action!

- Willing to write a letter to Senator Grassley? Let me know.
- Thank Jonathan Tidd, Jeff Comfort and Charles Schultz!
- Got results – good or bad? Let me know!



Questions?

- To ask a question:
 - Send a message via chat box.





Still Have a Question?

Contact: Johni Hays

Email: johni@ceplan.com

Phone: 515-988-8817