


**PG Calc** YOUR PARTNER IN PLANNED GIVING 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

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### RIFT Project

**R**elease  
**I**RA  
**F**unds  
**T**imely

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### Today's Webinar Presentation

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

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Who and What and When?

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

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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)

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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?

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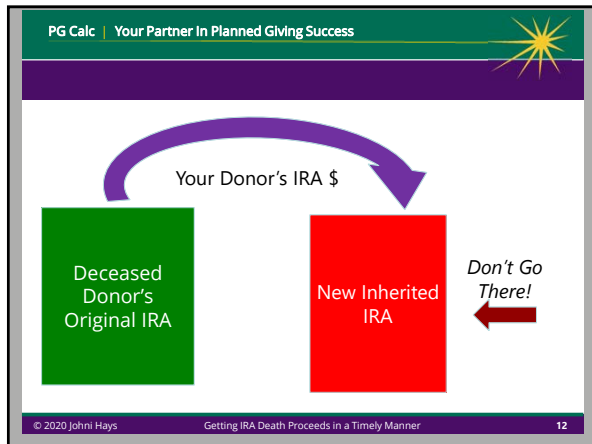
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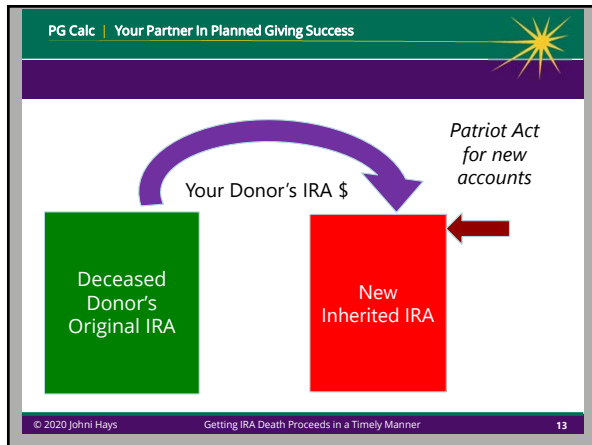
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The Patriot Act

Enacted to prevent terrorism after 9/11

Is your organization a "known terrorist?"

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### 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

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You want payment from this account

Deceased Donor's Original IRA

Don't Go There!

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Ask for a manual IRS Form 1099 on this contract

Deceased Donor's Original IRA

KEY!

Don't Go There!

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It's Your Choice

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

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Why is this happening?

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Does Your Organization Want to "Stretch?"

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

They don't!

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**Overlooked**

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

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**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*

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**What Some Custodians Have Said...**

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

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**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.”

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**Is the Problem Getting Worse?**

- Some financial institutions now require a 2<sup>nd</sup> 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

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**What Can Your Organization Do Now?**

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### 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).

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### 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)

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### 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.

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**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.

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**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.

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**Put it in Writing**

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

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## Nationwide working on a permanent solution!

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### 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

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### 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](http://www.charitablegiftplanners.org/ira-distribution-resource-center)

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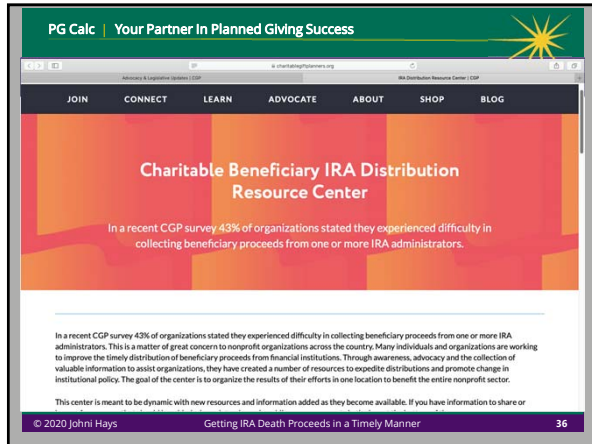
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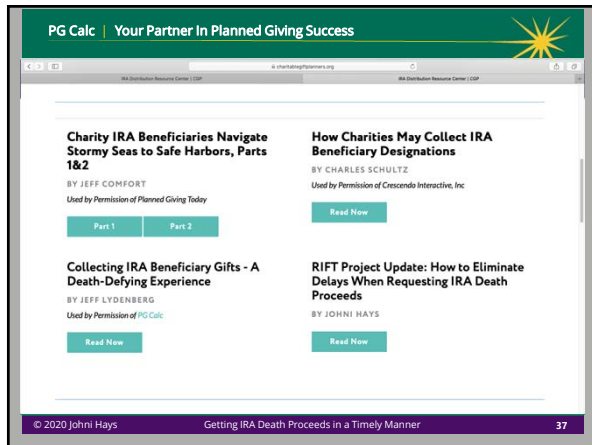
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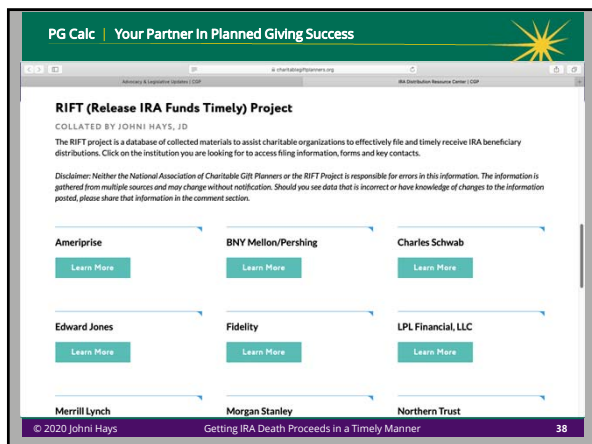
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**Wells Fargo**

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, Malissawelch@wellsfargo.com

Membership | National Association of Charitable Gift Planners | Login

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**Morgan Stanley**

They do not require a separate inherited IRA account to 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:

- a letter of direction (with transfer instructions),
- evidence that the person giving the instructions has authority to act on behalf of the charity, and
- 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 bank or otherwise.

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**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

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### 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

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### Other National Efforts

Chair of Senate Finance Committee

SFC investigator is working for us!

Stay tuned!



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### 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

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

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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

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**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

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**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!

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**Questions?**

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



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**Still Have a Question?**

Contact: Johni Hays  
Email: [johni@ceplan.com](mailto:johni@ceplan.com)  
Phone: 515-988-8817

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