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THE IRA INHERITANCE TRUST

1. What is it? It is a stand-alone revocable trust (in addition to the standard revocable trust) that has received a federal service mark as an IRA Inheritance Trust. IRS PLR 200537044. (3/29/05) It creates separate subtrusts upon the owner's death - children or the surviving spouse as beneficiaries.
2. Why is it used? The Inheritance Trust qualifies as a Designated Beneficiary – using each beneficiary's own life expectancy. Benefit – stretchout.
3. How is it structured? It is structured as a conduit trust – all IRA distributions pass through to the beneficiary. The beneficiary can be trustee of own subtrust. A trust protector has the power to switch a conduit trust to an accumulation trust (creditor protection) or an accumulation trust to a conduit trust (stretchout). Switching to or from a conduit trust should occur within 9 months after death (disclaimer). Regulations may allow the switch by 9/30 of year after death. The beneficiary form designates each subtrust as beneficiary.
4. Are there any downsides?
 - * Additional cost
 - * Creditors can reach RMD
 - * Too broad powers for trust protector.
5. Are there insurance opportunities? Yes, if the children and grandchildren are beneficiaries of the IRA, consider a wealth replacement trust for the spouse or other beneficiaries.

BENEFICIARY-CONTROLLED TRUST

1. What is it? It is a revocable trust that divides into separate trusts for each beneficiary.
2. Why is it used? It is used to allow the beneficiary to exclude the assets from his or her estate for tax and creditor purposes.

3. How is it structured? It is structured with an independent co-trustee. The primary beneficiary can remove and replace the independent trustee thereby maintaining control. The beneficiary can also have a special power of appointment to appoint the property in favor of other beneficiaries.
4. Are there any downsides?
 - * Lack of control in the beneficiary.
 - * Beneficiary can choose "friendly" trustee to defeat creditor protection.

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