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KNOW YOUR OPTIONS AS A BENEFICIARY OF AN IRA

Recently, the Tax Court held that a surviving spouse who rolled over her husband's IRA into her own IRA, and then later took a distribution from her IRA, owed a 10% penalty tax on the distribution. In a case decided by the Tax Court in 2006, the facts were that Mr. Campbell died, with the sole beneficiary of his IRA being his wife. Mrs. Campbell asked the financial institution that was the Trustee of the IRA to make a direct roll over into a previously existing IRA in her name. Mrs. Campbell subsequently remarried, and four years later (when she was under the age of 59-1/2) she took a distribution from the IRA. She reported the distribution on a joint income tax return with her new husband, but did not report or remit a 10% penalty on the distribution. The wife claimed that the IRA's Trustee entered an incorrect distribution code on her Form 1099 and that the distribution should have been identified as a distribution from an IRA of her former deceased husband. The wife argued that the funds in her deceased husband's IRA did not lose their character as funds from his IRA.

The Tax Court disagreed and held that the original source of the distribution from the IRA was irrelevant (whether originating from the deceased husband's IRA or her own contributions). Since the wife did not have to formally "re designate" her deceased husband's IRA as her own, the distribution was not occasioned by the death of the wife's deceased husband, nor made to her as a beneficiary of his IRA. The Tax Court concluded that once the wife chose to roll her deceased husband's IRA into her own IRA, she lost the ability to qualify for the exception to the 10% penalty tax on early distributions that would otherwise be available to a spouse beneficiary.

MY RECOMMENDATION: This Tax Court decision shows the importance of getting expert financial advice on how to handle IRA distributions or roll overs. The penalty tax could have been avoided had the surviving spouse kept the entire IRA balance in the deceased husband's name until she reached age 59-1/2.

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