

## IRAS, RETIREMENT PLANS, LIFE INSURANCE AND ANNUITIES

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Most individuals have some type of retirement plan, IRA, life insurance policy or annuity. These are all contractual relationships between the owner who is the individual establishing the asset and the company administering the asset. The individual who owns the asset selects a named beneficiary and upon the death of the owner of the asset, the company will pay the proceeds to that named beneficiary. Generally the named beneficiary is an individual or individuals, rather than the decedent's estate.

These assets are generally considered "non-probate" assets since the proceeds are distributed to the named beneficiary pursuant to the terms of the contract, they do not pass through the decedent's estate and therefore, no formal probate or estate administration is required. Although no formal administration is required to distribute these contractual assets, the proceeds may be subject to taxes and potential penalties in some cases.

Life insurance proceeds are exempt from Pennsylvania Inheritance Tax, even if the decedent's estate is the named beneficiary. For estates subject to Federal Estate Tax (estates valued at 2 million dollars for decedents dying after January 1, 2007), life insurance proceeds are included in the gross estate for computation of any Federal Estate Tax which may be due.

Annuities are treated as bank accounts for purposes of Pennsylvania Inheritance Tax and the proceeds payable on the decedent's life are subject to taxation. For Federal Estate Tax purposes, annuities received by beneficiaries as a result of decedent's death are included in the gross estate and taxes.

IRAs and qualified retirement plans may or may not be subject to Pennsylvania Inheritance Tax, depending upon circumstances, most importantly, the age of the decedent. These benefits are exempt from Pennsylvania Inheritance Tax to the extent that decedent did not have the right to possess, enjoy or assign the asset, which doesn't include naming a beneficiary. Generally this has been interpreted to mean that if the decedent dies before age 59½, then the proceeds are not taxable. If decedent was over age 59½, then the proceeds are usually taxable; however, with regard to a qualified retirement plan, the specific terms of the plan will determine whether the death benefits are subject to inheritance tax. For Federal Estate Tax purposes, 100% of the benefit is included in the gross estate for taxation.

While IRA proceeds may be paid to named beneficiaries immediately after death, the actual distribution of qualified retirement plans are dependent upon decedent's age, what elections were made by decedent while living and whether or not decedent was receiving distributions at the time of death.

Although these contractual, non-probate assets may be processed and distributed without a formal estate administration, due to the potential tax liability which exists, it is best to contact an attorney to assist in the process.