

YOUR TOP 50 IRA QUESTIONS, ANSWERED



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Introduction

If planning for your retirement has you confused, you're not alone! In fact, many Americans have trouble distinguishing between the vast array of retirement plans and options.

We've received many questions on everything from how to open an IRA account to spousal and tax related concerns. With the aid of our retirement guru Denise Appleby, we've picked 50 of the most popular questions and created this short guide.

Be sure to check out many of the articles and terms we've hyperlinked throughout for further details on various IRA-related issues.

Getting Started

1. *What is the difference between a Roth IRA and a savings account?*

A [savings account](#) is an all-inclusive term, which includes IRAs and regular (non-retirement) savings. A [Roth IRA](#) is a savings account in which earnings accrue on a tax-deferred basis, but are tax free if distributions are qualified. In a regular savings account, earnings are added to an individual's taxable income for the year earned.

Check out the article [Tax Treatment Of Roth IRA Distributions](#) for an analysis of Roth IRA distributions and examples and explanations of the circumstances under which earnings in a Roth IRA would (or would not) be subject to income taxes.

2. *How do I open a Roth IRA?*

You may open [Roth IRAs](#) at most financial institutions, such as your local bank, your credit union, or brokerage firm. You can even establish an IRA online. The process is as easy as completing a one-page document. Most financial institutions may also require that you complete a new account or customer application in addition to the Roth IRA adoption agreement.

Before you choose a financial institution, you want to compare features and benefits. For instance, one institution may charge \$30 annually for administrative fees, while another may charge \$50. Although this amount may seem small, it can be significant when compared to your account balance. For instance, if you decide to contribute \$1,000 to your Roth IRA for the year and the annual fee is \$50, this would be 5% of your balance.

You should also consider accessibility of funds. It may be easier to access your assets at your local bank than at an online financial institution. On the other hand, online financial institutions charge lower fees in most instances.

Another important thing to consider is the type of investment you would prefer. For instance, would you like to invest in a [certificate of deposit](#), [money market fund](#) or [mutual fund](#)? Financial institutions should be able to explain the options they have available, including the features and any applicable fees.

3. What are the income limits to contribute to a Roth IRA?

The 2007 and 2008 income limits for Roth IRA contributions are as follows:

Situations	2007	2008
Individuals who are married and file a joint tax return	\$166,000	\$169,000
Individuals who are married, file a separate tax return and lived with their spouse at any time during the year, AND	\$10,000	\$10,000
Individuals who file as single, head of household or married filing separately and did not live with their spouse at any time during the year	\$114,000	\$116,000

If your income is less than these amounts, you may contribute the full amount of \$5,000 (\$6,000 if you are at least age 50 by the end of the year for which the contribution is being made).

If your modified adjusted gross income (MAGI) falls within a certain range, you may not be able to contribute up to the full contribution limit. You must use a formula to determine the maximum amount you may contribute to a Roth IRA.

These ranges are as follows:

Situations	2007	2008
Individuals who are married and file a joint tax return	\$156,000 ≤ \$166,000	\$159,000 ≤ \$169,000
Individuals who are married, file a separate tax return and lived with their spouse at any time during the year, AND	0 ≤ \$10,000	0 ≤ \$10,000
Individuals who file as single, head of household, or married filing separately and did not live with their spouse at any time during the year	\$99,000 ≤ \$114,000	\$101,000 ≤ \$116,000

If your income falls within these ranges, you may use [IRS publication 590](#) to assist you with the calculation, or consult with your tax professional.

4. What is the difference between a Traditional and a Roth IRA?

The main difference between a [Traditional](#) and a Roth IRA is the way contributions are deducted for tax breaks. Whereas contributions to Traditional IRAs are either deductible or non-deductible, Roth IRA contributions are always non-deductible. As a result, Roth IRAs offer tax-sheltered growth, whereas Traditional IRAs offer tax-deferred growth.

In addition, Traditional and Roth IRAs have different age limits. If you'd like to contribute to your IRA for as long as you'd like, Roth IRAs would be the best choice as there is no age limit. You may not make contributions to a Traditional IRA after and

during the year you reach age 70.5.

Another difference between Traditional and Roth IRAs are income limitations. Whereas a Traditional IRA has no income caps, a Roth IRA has the following for 2007 and 2008:

Situations	2007	2008
Individuals who are married and file a joint tax return	\$166,000	\$169,000
Individuals who are married, file a separate tax return and lived with their spouse at any time during the year	\$10,000	\$10,000
Individuals who file as single, head of household, or married filing separately and did not live with their spouse at any time during the year	\$114,000	\$116,000

To learn more, see the article [Roth or Traditional IRA ... Which is the Better Choice?](#)

5. If I earn more than the income limit for both a Roth and Traditional IRA deduction, should I still make a contribution?

It is always a good choice to fund the [individual retirement account](#) (IRA), even if the owner is not eligible to claim the deduction. The IRA owner can still choose to invest the amount in the same funds within the IRA, where the earnings are [tax deferred](#). The individual may also establish a self-directed IRA, in which he or she can diversify the portfolio to include stocks, bonds, mutual funds and any other investments allowed by the IRA custodian. When compared with a deductible contribution, the only benefit that is forgone is deducting the contribution, but this is rectified on the back end, as [distributions](#) of non-deductible contributions are tax and penalty free.

To learn more about contributing to an IRA, see:

- [IRA Contributions: Eligibility And Deadlines](#)
- [Traditional IRA Deductibility Limits](#)
- [Fundamentals Of A Successful Savings Program](#).

6. What are some features and benefits of SEP IRAs and Roth IRAs?

[Simplified Employee Pension Individual Retirement Account \(SEP IRA\)](#)

1. Established and funded by a business (including a [sole proprietorship](#))
2. Must be established and funded by the employer's tax filing deadline, including extensions
3. Contribution limit is 25% of compensation or \$45,000, whichever is less. For a sole proprietor, the contribution limit is 20% of the sole proprietor's adjusted net business income.
4. Contribution within the limits is deductible on the employer's business tax return.
5. Earnings grow on a tax-deferred basis.
6. Distributions will be treated as ordinary income and subject to income tax and early withdrawal penalties if you are under age 59.5 when the withdrawal is made, unless you are eligible for an exception.

Roth IRA

1. Established and funded by the individual taxpayer
2. Must be established and funded by individual taxpayer's tax filing deadline (usually April 15), extensions not included.
3. Contribution limit is the lesser of 100% of compensation or \$4,000 (\$5,000 if you are at least age 50 by the end of the year for which the contribution is being made).
4. Contributions are not deductible.
5. Earnings grow on a tax-free basis (certain rules apply).
6. Qualified distributions are tax and penalty free.

If you fund an SEP IRA and then [convert](#) those assets to a Roth IRA, the converted amount will be treated as ordinary income and subjected to income tax for the year you convert the assets.

Generally, SEP IRAs and Roth IRAs are not substituted for each other, as they are two different types of retirement plans. An individual may be able to participate in both if he or she meets the eligibility requirements. Consult with your tax professional to ensure that you choose the plan best suited to your financial profile.

7. *Can I create more than one IRA?*

There is no limit on the number of [IRAs](#) that you can establish. However, regardless of the number of IRAs you maintain, you still cannot contribute more than the annual contribution limits:

- \$4,000 for years 2005 to 2007
- \$5,000 for years 2008 and after

If you are at least age 50, you are allowed to contribute additional amounts of \$1,000 for years 2006 and after.

If you decide to establish multiple IRAs, remember that annual maintenance fees that may apply to each IRA. These fees average from \$50 to \$100 per year.

8. *Can I contribute to both a Roth IRA and a Traditional IRA in the same year?*

Yes. An individual may make IRA contributions to both a [Roth](#) and a [Traditional IRA](#), provided the combined contribution total does not exceed the contribution limit for the year.

For instance, for tax year 2007, an individual may make a total contribution - whether to one IRA or partially to a Traditional IRA and partially to a Roth IRA - of up to \$4,000 or 100% of taxable compensation, whichever is less.

If the individual reaches age 50 by the end of 2007, the dollar (contribution) limit is \$5,000 (\$4,000 plus a "catch-up" contribution of \$1,000).

The total amount contributed to both the Traditional and the Roth cannot exceed \$4,000 (\$5,000 if age 50 or older) for tax year 2007.

9. What is the five-year waiting rule for Roth IRAs?

There are two five-year waiting periods that apply to [Roth IRAs](#). However, in both cases, the waiting period for a Roth IRA begins on the first day of the applicable calendar year. How this rule applies to you depends on the circumstances.

To clarify, let's look at the rule in detail:

For the five-year waiting period to determine whether a Roth IRA distribution is [qualified](#) (that is, tax and penalty free), the five-year period begins the first day of the first year for which any of your Roth IRAs were funded. For instance, if you [converted](#) your [Traditional IRA](#) to a Roth IRA in November 1998, your five-year period begins January 1, 1998. Or, if you made a regular contribution to your Roth IRA for 1998, which could occur any time between January 1, 1998, and April 15, 1999, your five-year period begins January 1, 1998. If you establish other Roth IRAs *after* that first Roth IRA, your five-year period for those new Roth IRAs still begins January 1, 1998, regardless of when those new Roth IRAs are established.

A qualified distribution from your Roth IRA is tax and penalty free and there is only one five-year waiting period, which begins with your first Roth IRA. If your Roth IRA distribution is qualified, you need not be concerned with the other five-year period.

The other five-year waiting period applies only if the distribution is [non-qualified](#). For this purpose, there is a separate five-year period for each Roth IRA conversion, and each one begins the first day of the year in which the conversion was made. For instance, if you converted your Traditional IRA to a Roth IRA in 1998, the five-year period for those converted assets begins January 1, 1998. If you later convert other Traditional IRA assets to a Roth IRA in 2003, the five-year period for those assets begins January 1, 2003. To determine whether you are affected by this five-year rule, you need to consider whether the distribution being made from your Roth IRA includes Roth conversion assets and, if so, what year those conversions were made. For this purpose, the [ordering rules](#) must be used.

To read more about IRA distributions and applicable penalties, read:

- [Tax Treatment Of Roth IRA Distributions](#)
- [Avoiding IRS Penalties On Your IRA Assets](#)
- [Introductory Tour Through Retirement Plans](#).

10. Can stocks be used instead of cash to fund my Roth IRA?

Regular [IRA](#) contributions must be made in cash. Contributions of securities are not allowed. Internal Revenue Code Section § 219(e)(1) and [IRS Publication 590](#) provide detailed information about IRA contribution rules.

Exceptions apply to [rollover](#) contributions if the same security was distributed.

For more on this, read [IRA Contributions: Eligibility And Deadlines](#).

11. Can I contribute to both a 401(k) and an IRA?

If you contribute to your [401\(k\)](#) account, you may still contribute to a Roth IRA and/or a Traditional IRA; however, your participation in the 401(k) plan may affect your ability to take a tax deduction for any Traditional IRA contributions. It will not affect the amount you are able to contribute. (To learn more, see the articles [Are You an Active Participant?](#) and [Traditional IRA Deductibility Limits.](#))

Your 401(k) contribution has no effect on your Roth IRA contributions. You only need to ensure you meet the eligibility requirements for funding a Roth IRA. (For more on this, see [Roth IRA: Back To Basics.](#))

12. What is a required minimum distribution (RMD)?

The amount that Traditional, SEP and SIMPLE IRA owners and qualified plan participants must begin distributing from their retirement accounts by April 1 following the year they reach age 70.5. RMD amounts must then be distributed each subsequent year.

These required minimum distributions are determined by dividing the prior year-end fair market value of the retirement account by the applicable distribution period or life expectancy.

Some qualified plans will allow certain participants to defer beginning their RMDs until they retire, even if they are older than age 70.5. Qualified plan participants should check with their employers to determine whether they are eligible for this deferral.

For more information, see:

- ['Tis The Season For Required Minimum Distributions](#)
- [Strategic Ways To Distribute Your RMD](#)
- [Preparing For The RMD Season – Part 1](#) and [Part 2.](#)

13. Are IRAs secure against possible liens?

Your IRA is protected from bankruptcy up to \$1 million. However, in all other cases, state law determines whether any protection exists and the level of protection.

It is best to consult with a local attorney to determine the types of protection offered in your state.

To learn more, see articles [Bankruptcy Protection For Your Accounts](#) and [Build A Wall Around Your Assets.](#)

14. Can I write off the losses in my Roth IRA?

It depends. You are eligible to write off the losses for one or more Roth IRAs if the balance of your [Roth IRAs](#) (combined) is less than your aggregate contributions and conversions to all Roth IRAs, and you distribute the entire balance of all Roth IRAs.

The loss is claimed on your [Form 1040](#) - Schedule A as an [itemized deduction](#). However, it is subject to the 2% [adjusted gross income](#) limit that applies to certain miscellaneous itemized deductions. See [Deducting Losses On Your IRA Investments](#) for more on this topic.

15. What investments are available to someone with no earned income?

Disability income, such as income received by disabled veterans, is not considered “compensation” for the purpose of contributing to an IRA.

However, all is not lost. You may invest your income in [bonds](#), [mutual funds](#) or other assets. Some investments allow you to defer paying taxes on the interest and other earnings until you cash in the investment (similar to earnings in [Traditional IRAs](#)). With other investments, the interest/earnings may be taxed in the year they are received.

For more detailed information, you should contact your financial advisor or financial institution and ask to speak with someone who is knowledgeable about the tax treatment of the return on investments. They should be able to provide investment options that suit your specific needs.

16. Can I trade in the forex market as an investment in my self-directed IRA or Roth IRA?

In the U.S., one of the best ways for individuals to protect their incomes from taxes and save for retirement is by using an individual retirement account (IRA). IRAs come in many forms that can be tailored to specific individual preferences. However, significant rules and regulations have been developed and initiated by the IRS and the [U.S. Treasury](#) department that can make the use of IRAs quite confusing. Two of the main IRAs are self-directed IRAs and [Roth IRAs](#).

Self-directed IRAs are ones that are controlled by the individual. These accounts are established between the individual opening the account and a [stockbroker](#). The individual is then in control of all the money that he or she wishes to invest. Roth IRAs can be opened through a broker, [mutual fund](#) or bank. Contributions made toward a Roth IRA are made on an after-tax basis; however, the key to the Roth IRA is that it provides tax-free growth.

Fortunately, individuals who have self-directed IRAs or Roth IRAs can trade in the [forex](#) market as an investment. In order to do this, a forex trading IRA must be opened. Individuals who do this benefit greatly from being able to day trade tax free. Using forex within a retirement plan also provides added diversification that can be used to add stability to an investor's returns. Furthermore, individuals who already have assets invested in other IRA accounts are able to transfer those assets into a forex IRA account by filling out the necessary paperwork.

As with traditional IRAs, forex IRAs can either be self-directed by the individual opening the account, or managed by a professional forex manager.

17. If I no longer am employed by a school, can I roll over a 403(b) plan into an IRA?

Now that you are no longer working with the (former) employer that established your [403\(b\)](#) account, you may roll your 403 (b) balance to your Traditional IRA.

Generally, only a signed contribution form is required by the IRA custodian/trustee to deposit the funds to your IRA. However, to be sure, consult with your IRA [custodian](#) regarding its policies and procedures. This will prevent any unnecessary delays.

You should also consult with your 403(b) plan administrator/carrier to ensure the proper paperwork is completed. You may need to complete a distribution request form

in order to have the assets distributed. The administrator may also require an acceptance letter from your IRA custodian. This serves as a confirmation that the assets will be deposited to an eligible retirement plan.

Finally, make sure the transaction is processed as a "direct rollover." This means that any funds distributed are made payable to your IRA custodian and are usually sent directly to them. If the funds are made payable to you, the 403(b) administrator is generally required to withhold at least 20% for federal taxes.

Conversions and Withdrawals

18. *Is there a limit on how much I can move from my Traditional IRA to my Roth IRA?*

There is no limit on the amount that can be converted from your [Traditional IRA](#) to your [Roth IRA](#).

As you may already know, your [modified adjusted gross income](#) must be \$100,000 or less and your tax filing status cannot be [married filing separately](#) in order for you to be eligible for a Roth IRA conversion.

To learn more, read [Did Your Roth IRA Conversion Pass Or Fail?](#)

19. *Can I close my existing Roth IRA and invest in a new Roth IRA at a different financial institution without a tax penalty?*

If you withdraw your Roth IRA contribution, the amount will be tax and penalty free. If your initial contribution accrued earnings while in the Roth IRA and you also withdraw the earnings, the earnings will be subject to income tax. Furthermore, if you are under age 59.5, the withdrawal will be subject to an early distribution penalty as well, unless you meet an exception to the penalty. Both the tax and the penalty apply because your distribution is not a qualified distribution.

As an alternative to withdrawing the amount, you may consider transferring the balance to the new financial institution with which you plan to establish your new Roth IRA. A transfer is a tax-free movement of assets between retirement plans. The Roth IRA established to receive this transfer could also be the same Roth IRA to which you make your contribution for tax year 2007 and future years. Your new financial institution will be able to assist you with the necessary paperwork to effect this transfer. Alternately, you could request a [distribution](#) of the assets and make a [rollover](#) contribution to your new Roth IRA within 60 days after you receive the distribution. A rollover is also a tax-free movement of assets between retirement plans.

Please bear in mind that you must meet certain income requirements in order to make a Roth IRA contribution. For 2007 they are as follows:

You are able to contribute 100% of compensation up to \$4,000 (\$5,000 if you are at least age 50 by the end of the year for which you are making the contribution) your modified adjusted gross income cannot exceed:

- \$114,000 if you are single (the \$4,000 limit is reduced if you earn between \$99,000 and \$114,000)

- \$166,000 if you are married filing jointly (the \$4,000 limit is reduced if you earn between \$156,000 and \$166,000)
- \$10,000 if you are married filing separately (the \$4,000 limit is reduced if you earn between \$0 and \$10,000)

20. Can I covert non-deductible contributions made to my Traditional IRA to a Roth IRA without being taxed?

You can [convert](#) the amount to a [Roth IRA](#); however, a portion of the amount you convert to the Roth will be subject to income tax. When your [Traditional IRA](#) balance consists of deductible and non-deductible contributions, any amount distributed or converted from the Traditional IRA is [prorated](#) to include a taxable and non-taxable portion of the assets.

You may figure the taxable amount by using the following formula:

(Total deductible contribution/total IRA balance) X distribution/conversion amount= non-taxable amount

Using your figures, the taxable amount would be:

$(8,000/100,000) \times 8,000 = 640$

Of the \$8,000 that you convert, \$7,360 will be taxable ($\$8,000 - 640 = \$7,360$).

This rule applies even if the deductible amounts and non-deductible amounts are held in separate Traditional IRAs. Also note that if you maintain multiple Traditional IRAs, their total balances must be combined in the formula above to determine the amount that can be excluded from income (i.e. the amount that is non-taxable).

Consult with your tax professional to ensure that the appropriate forms are filed and the calculations are accurate.

Reminder: IRS Form 8606 must be filed for any tax years that you distribute assets from your Traditional IRA, if any of your Traditional IRA balances include non-deductible contributions. IRS Form 8606 is used to help you determine the taxable portion of your distribution or conversion. The IRS may assess a \$50 penalty for any failure to file Form 8606. The form is available at www.irs.gov.

21. Can a simplified employee pension (SEP) IRA be converted to a Roth IRA in the same manner that a Traditional IRA can?

Yes. An [SEP IRA](#) can be converted to a [Roth IRA](#).

As you may know, an SEP IRA is just a [Traditional IRA](#) that receives employer SEP contributions. Once the SEP contributions are made to the account, they immediately assume the identity of regular Traditional IRA assets and are subject to the same set of rules.

22. Can I return funds to my Roth IRA after I have taken it as a distribution?

Yes. You can [roll over](#) the amount to the [Roth IRA](#), or another of your Roth IRAs (excluding inherited Roth IRAs), provided the amount is rolled over within 60 days from when you received the amount and the Roth IRAs were not involved in a rollover during the 12 months preceding the date of the distribution. This is because a Roth IRA can be involved in a rollover only once during a 12-month period. Roth conversions are not counted in this 12-month rule.

Eligible amounts that are rolled over within the 60 days are not subject to income tax or the early distribution penalty, even if the amount is a non-qualified distribution.

For more on the 60-day rule, including circumstances under which the 60-day period can be extended, see [Exceptions To The 60-Day Rollover Rule](#).

23. My Traditional IRA has been converted to a Roth IRA. Can I still make a qualified withdrawal as a first-time home buyer?

If you converted the funds less than five-years ago, you will not be able to meet the [qualified distribution](#) requirements. However, the amount you distribute for use toward the acquisition of a first home will not be subject to the 10% early-[distribution](#) penalty. Furthermore, if the amount is less than the amount you converted from your [Traditional IRA](#) to your [Roth IRA](#), the amount will also be tax free. For example:

- If you converted \$10,000 or more and you distribute \$10,000 for your first-time home purchase, the full \$10,000 will be tax and penalty free.
- If you converted \$9,000 and you distribute \$10,000, the additional \$1,000 is counted as earnings and subject to income tax, but the \$9,000 will be tax and penalty free.

In order for the transaction to be a qualified distribution, you must have had a Roth IRA for at least five years, and you must meet one of the following requirements:

1. Be at least age 59.5
2. Be disabled
3. Be using the assets to purchase a first-time home
4. Be receiving the distribution from a Roth IRA that you inherited from a deceased Roth IRA owner

Remember that the maximum amount that is eligible for the penalty-free treatment for a first-time home purchase is \$10,000. This is a lifetime limit.

For more information on a qualified distribution, please see [Tax Treatment Of Roth IRA Distributions](#).

Spousal IRAs

24. Can IRAs be held jointly by spouses?

An [individual retirement account](#) (IRA) must be established and maintained on an individual basis. It cannot be held jointly. However, the IRA owner may designate his or her spouse (or any other party) as the [beneficiary](#) of the IRA. In some states, the spouse must provide written consent if the IRA owner designates any party other than the spouse as the beneficiary of the IRA.

25. What should I do if I accidentally over-contributed an IRA for my spouse?

Don't feel too badly. We all make mistakes. The good news is that you may have some time to make the proper corrections.

The [IRS](#) provides you with an automatic six-month extension to correct excess contributions if you file your federal tax return by the April 15 deadline. This means your spouse may have until the middle of October to correct the excess contribution. Should the excess contribution remain in the [Roth IRA](#) after this deadline, your spouse will owe the IRS a 6% penalty on the excess contribution. This 6% is assessed for every year the excess remains in the IRA.

To correct a Roth IRA excess contribution, the excess contribution must be removed from the Roth IRA along with any earnings (or minus any loss). The IRA custodian may require your spouse to complete a [distribution](#) request form (or return of excess request). Some custodians will assist you with calculating any earnings on the excess contribution. If this is the only contribution made to the account, calculating the earnings will be easy. In general, the earnings will be determined by subtracting (from the current balance) any fees and the amount that was contributed.

The excess correction will be reported to your spouse and the IRS on [Form 1099-R](#). If the excess contribution is being corrected in the current year, the 1099-R will be mailed to your spouse the following January. Not to worry. The IRS does not require you to attach Form 1099-R to your tax return unless you had federal taxes withheld from the distribution(s) being reported. Any earnings will be taxable in the current year (the year for which the contribution was made), which means that if you already filed your federal tax return, you may need to file an amended return to include any earnings. This will be denoted by a "P" in box #7 of Form 1099-R.

You may want to consult with your tax professional to ensure all the requirements are met.

26. If an individual still has his or her former spouse as the beneficiary of an IRA, does the former spouse receive the assets upon the individual's death ?

It depends. Generally, divorce does not effectively change a [beneficiary](#) designation unless the divorce decree makes a stipulation to change the beneficiary. It could be argued that the individual retirement account (IRA) owner wants the former spouse to remain the beneficiary of this IRA. Unless a court order states otherwise, the former spouse may be entitled to receive the assets if he or she is the named beneficiary on record at the time of the IRA owner's death.

This may not be the case if the IRA owner resided in a community or marital property

state. These states include Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin. If the IRA owner resided in one of these states and did not name his or her current spouse as the sole primary beneficiary, the designation may not be valid if the current spouse did not consent to such a designation. Note, however, that in a community or marital property state, the surviving spouse's entitlement to the IRA assets may be limited to what is defined (by state law) as community or marital property and even then may be limited to a percentage of the amount. For instance, some states define marital property as that which is earned during the marriage and limits the spouse's entitlement to 50% of the marital property.

It's a common occurrence for an IRA owner to die having failed to change a beneficiary designation after divorce. Some surviving spouses have taken the matter to court because they felt they should be the designated beneficiary (albeit, not so designated by the IRA owner). If such a dispute arises, the IRA [custodian](#) will place a hold/freeze on the IRA assets, and await a ruling by the court. The custodian will generally abide by the court's ruling.

In the absence of a notification of any dispute, the IRA custodian will pay the assets to the beneficiary on record at the time of the IRA owner's death.

27. *Can a spouse who is not designated as a beneficiary of his or her spouse's IRA, claim its assets over the named beneficiaries?*

Generally speaking, the Designation of [Beneficiary](#) form dictates who receives the assets from the [individual retirement account](#) (IRA). Therefore, no one else is entitled to receive any share of the IRA, unless the named beneficiaries choose to disclaim their portion. However, if the IRA contributor resided in a community or marital property state and his or her spouse did not approve the designation of beneficiary, he or she may be entitled to a portion of the IRA. Under the laws of these states, the spouse must be the primary designated beneficiary, unless he or she consents to another party being the primary designated beneficiary. The community and marital property states are Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin.

If the contributor resided in one of these states, you need to check with the [custodian](#) to determine whether the proper approval was obtained from you (as the contributor's spouse). If the proper approval was obtained, or if the contributor did not reside in one of these states, then the designated beneficiaries would be able to take possession of your share of the IRA.

Note that even if the contributor resided in a community or marital property state, the IRA (or a portion of it) may nevertheless not be subject to the community or marital property laws if the balance was accrued before he or she was married. To be sure, check with a local attorney who specializes in estate planning or tax law.

28. Can my spouse and I convert our IRAs to Roth IRAs regardless of earned income?

You may be eligible to convert your [Traditional IRA](#) to a [Roth IRA](#) regardless of whether or not you have earned income. However, if your modified [adjusted gross income](#) (AGI) exceeds \$100,000, you are not eligible for a [Roth conversion](#). If you meet the following conditions, you are eligible to convert your assets to a Roth IRA:

1. Your modified AGI is not more than \$100,000.
2. You are not a married individual filing a separate return.

For Roth IRA purposes, your AGI as shown on your return is modified as follows:

1. Subtract any income resulting from the conversion of your IRA to your Roth IRA (conversion income).
2. Add the following [deductions](#) and exclusions:
 1. Traditional IRA deduction
 2. Student loan interest deduction
 3. Tuition and fees deduction
 4. Foreign-earned income exclusion
 5. Foreign housing exclusion or deduction
 6. Exclusion of qualified bond interest shown on Form 8815
 7. Exclusion of employer-paid adoption expenses shown on Form 8839

To determine your AGI, please refer to page 1 of [IRS Form 1040](#).

29. My spouse and I now earn more than the dual-income limit specified by our IRAs. What will happen to our previous contributions?

The amounts that you contributed while your modified adjusted gross income (MAGI) was within the statutory limits will not be affected by any increase in your MAGI for future years.

For instance, assume you contributed \$4,000 for tax year 2007 while your MAGI was below \$166,000. If in 2008 your MAGI increases to \$200,000, you would not be eligible to contribute to the Roth IRA for tax year 2008 (as the 2008 limit is \$169,000 for a married couple filing a joint return). However, your new MAGI in 2008 does not affect the amounts you contributed for previous years.

30. Can I add my higher income spouse's name to my Roth IRA in order to raise our contribution limits?

IRS rules prevent you from maintaining joint [Roth IRA](#) accounts. However, you may accomplish your goal of contributing larger amounts if your spouse establishes his or her own IRA. Please note, however, that if your tax filing status in 2007 is [married filing separately](#), you are eligible to contribute to a Roth only if your [modified adjusted gross income](#) (MAGI) is \$114,000 or less.

For individuals whose 2007 tax filing status is [married filing jointly](#), the limit is \$166,000.

31. My recently deceased spouse's IRA has been rolled over into mine. Does the cost basis change for me?

The cost [basis](#) attributed to [IRA](#) assets that you inherited remains the same. Since you are a spouse [beneficiary](#) and you elect to treat the assets as your own by transferring them to your own IRA, the basis is now treated as if you made the non-deductible contribution.

Going forward, you should file Form 8606 to determine the taxable portion of [distributions](#) you receive from any of your [Traditional IRAs](#). If you also made non-deductible contributions to your IRA, the basis from the inherited assets should be combined with your basis.

32. Is divorce an exception to the SIMPLE IRA's two-year waiting period rule?

First, some background: during the first two years after a [SIMPLE](#) IRA is established, assets held in the SIMPLE must not be [transferred](#) or rolled to another retirement plan. This two-year period begins the first day the employer deposits a contribution to the SIMPLE IRA. After the two-year period, assets in a SIMPLE IRA may be moved to another eligible retirement plan by means of a transfer, a [rollover](#) (including a direct rollover) or as a [Roth conversion](#).

[Distributions](#) that occur during the two-year period are subjected to an early-distribution penalty of 25% if the SIMPLE IRA owner is under age 59.5 when the distribution occurs. If an exception applies, however, the 25% penalty is waived. Distributions that occur when the SIMPLE IRA holder is age 59.5 or older are not subjected to the early-distribution penalty, even if the distribution occurs within the two-year period.

Regarding your question, I am not aware of any divorce exception to the two-year rule. However, there is good news: the two-year waiting period does not apply to transfers or rollovers between two SIMPLE IRAs.

The employer may allow the spouse receiving the assets to establish a SIMPLE IRA. Usually, all that is required for the spouse to establish the SIMPLE is a copy of the Form 5304-SIMPLE or 5305-SIMPLE that was completed by the employer to establish the SIMPLE IRA and the [custodian's](#) SIMPLE IRA [adoption agreement](#). The SIMPLE IRA adoption agreement must be completed by the spouse receiving the assets. The custodian determines whether any written authorization/confirmation from the employer is required to establish the SIMPLE for the spouse. The assets can then be transferred to the SIMPLE established for the spouse.

Tax Concerns

33. *I am making after-tax contributions to an IRA. Will I get taxed again when I withdraw it (when eligible)?*

No. Withdrawals of your after-tax contributions to your [IRAs](#) should not be taxed. However, the only way to make sure this does not happen is to file IRS [Form 8606](#). Form 8606 must be filed for every year you make after-tax (non-deductible) contributions to your [Traditional IRA](#) and for every subsequent year until you have used up all of your after-tax balance.

(To read more about IRA contributions, read [Retirement Plan Tax Forms You May Need to File – Part 1](#) and [Part 2](#), and [An Overview of After-Tax Balance Rules](#).)

34. *What are the tax consequences of a Roth IRA distribution if the IRA holder is younger than 59.5?*

The tax treatment of a Roth IRA distribution depends on whether the distribution is qualified. [Qualified distributions](#) from Roth IRAs are tax and penalty free, but [non-qualified distributions](#) may be subject to tax and an early-distribution penalty (known as an [excise tax](#)). Generally speaking, the Roth IRA holder must be at least age 59.5 when the distribution occurs for it to be a qualified distribution. But there are exceptions.

The answer to your question depends on the source of the assets being withdrawn. If the source is only [converted](#) assets and it has been at least five years since the assets were converted, or if you qualify for one of the exceptions, then the 10% early-distribution penalty will *not* apply. If the assets being withdrawn come from earnings and none of the exceptions exists, the penalty will apply regardless of the time period elapsed.

In short, if it has been five years since the assets were converted and the amount withdrawn is less than or equal to the amount converted, no penalty will apply, despite the fact that you are under 59.5.

Let's use an example to illustrate. Assume that the amount converted more than five years ago was \$10,000 and the assets have accrued earnings of \$2,000. Under the [ordering rules](#) applicable to Roth IRAs, converted assets are always deemed to be withdrawn before earnings. Therefore, the \$2,000 will not be withdrawn until after the \$10,000 is withdrawn. If the individual withdraws \$10,000 or less, the amount will be penalty free because it has been at least five years since the assets were converted.

If the individual withdraws \$12,000, \$10,000 of it will be penalty free, but \$2,000 will be subject to the 10% penalty unless the individual meets one of the penalty exceptions. The \$2,000 will also be subject to income tax if the distribution is not qualified.

35. What are the exceptions to the early distribution penalty for a non-qualified Roth IRA distribution?

The exceptions are as follows:

- The distribution is made on or after the date you reach age 59.5
- The distribution is made while you are disabled and you can furnish proof that you cannot do any substantial gainful activity because of your physical or mental condition. A physician must determine that your condition can be expected to result in death or to be of long, continued and indefinite duration.
- The distribution is part of a [substantially equal periodic payment](#) (SEPP).
- The distribution is made by your beneficiary after your death.
- The distribution is made as a result of an IRS levy.
- The distribution is used for a first-time home purchase for you or an eligible family member (subject to a lifetime limit of \$10,000). This includes expenses to build or rebuild a first home.
- You have unreimbursed medical expenses that are not more than (a) the amount you paid for unreimbursed medical expenses during the year of the distribution, or (b) minus 7.5% of your [adjusted gross income](#) for the year of the distribution.
- You are paying medical insurance premiums for yourself, your spouse and your dependents after losing your job and:
 - You received unemployment compensation paid under any federal or state law for 12 consecutive weeks because you lost your job.
 - You receive the distributions during either the year you received the unemployment compensation or the following year.
 - You receive the distributions no later than 60 days after you have been re-employed.
- The distributions are not more than your qualified higher education expenses.
- The distribution is attributed to amounts that were non-taxable when converted.
- The distribution is attributed to amounts that have been converted for at least five years.

To learn more, read [Avoiding IRS Penalties On Your IRA Assets](#).

36. Is my non-qualified Roth IRA distribution subject to taxes or early distribution penalties?

The [ordering rules](#) must be applied to determine whether the distribution is subject to income taxes and/or the early distribution penalty. Under these ordering rules, distributions are taken from funding sources in the following order:

- Regular contributions
- [Roth conversions](#)
- Earnings

Note: Roth conversion amounts are not considered distributed until all contribution amounts have been distributed; earnings are not considered distributed until all contribution - and then all conversion - amounts have been distributed

- If your distribution consists of only contributions, the amount is tax and penalty free.
- If your distribution includes amounts attributed to conversion amounts, that amount will be subject to the early distribution penalty, unless an exception

applies.

- If your distribution includes amounts attributed to earnings, that amount will be subject to income tax and the early distribution penalty. The penalty is waived if an exception applies.

37. If I roll my annuity into an IRA and receive after-tax distributions, will this be considered taxable income?

Distributions of after-tax amounts (amounts already taxed) will not be taxable when distributed to you.

However, you will be required to report the amount on your [tax return](#) as a non-taxable distribution. The plan should send you a [Form 1099-R](#), which is used to report distributions from retirement accounts. The 1099-R should show the amount as non-taxable. Be sure to provide your tax preparer with a copy of the 1099-R, but first make sure it does not reflect the amount as taxable.

38. Can I borrow from an IRA without penalty?

Yes. A 60-day [rollover](#) rule applies to all types of [IRAs](#). This 60-day rollover rule allows you to withdraw assets from your IRA and roll over the amount within 60 days in order to avoid paying taxes and/or the early distribution penalty on the amount.

Some reminders:

- You may [distribute](#) and rollover the same assets only once during a 12-month period.
- The same assets you withdraw must be the same you roll over to your IRA. For instance, if you withdraw cash, you must roll over cash. If you withdraw shares of ABC stock, you must roll over shares of ABC stock.

39. Are there tax penalties for closing my Roth IRA account?

You can close your [Roth IRA](#) account without negative consequences if your total account balance is less than the accumulated amounts you deposited as regular contributions. Furthermore, if you distribute the total balance, you may be able to deduct the losses on your tax return.

For more information from the IRS on this matter, see "Recognizing Losses on Investments" in [IRS Publication 590](#).

40. I deducted my IRA contribution on my tax return but failed to transfer the funds. What do I do?

If an [IRA](#) contribution was [deducted](#) on a tax return but the contribution was never made to the IRA by the taxpayer's tax filing deadline (no extension included), the tax return must be amended to remove the contribution.

Generally, Form 1040X must be filed within three years after the date the original return is filed or within two years after the date the taxpayer paid his or her income tax, whichever is later. If the contribution was reflected on the state tax return, an

amended return for the state should also be filed.

For more insight, check out [IRA Contributions: Deductions And Tax Credits](#).

41. I withdrew funds from my Roth IRA to contribute elsewhere. How will I be taxed?

If you close the Roth IRA now and [withdraw](#) the balance, you will be taxed on the earnings unless the distribution is [qualified](#). Furthermore, you will pay a 10% early distribution [excise tax](#) on the earnings unless you qualify for an exception.

The exceptions are listed on page 58 of [IRS Publication 590](#). You will not owe any taxes on the principal.

If you are using the funds to contribute to another savings plan, find out whether your contribution is [deductible](#). Some states allow a tax deduction for contributions made to such plans as prepaid college funds.

To learn more, read [Taking Penalty-Free Withdrawals From Your IRA](#) and [Rules Regarding Substantially Equal Periodic Payment \(SEPP\)](#).

42. I am over 60 years old and have a Roth IRA to which I have made contributions for more than five years. Are all distributions tax free?

Because you meet the five-year requirement (i.e. it has been five years since you first established and funded a [Roth IRA](#)) and you are at least age 59.5, all [distributions](#) from your Roth IRA(s) will be tax and penalty free.

The Roth IRA rules do not require any waiting period for investments; however, they do require a waiting period for Roth [conversions](#) if the Roth IRA owner does not meet one of the exceptions to the 10% penalty. Reaching age 59.5 is one of these exceptions, so you are no longer subject to any waiting period.

43. If I participate in my company's SIMPLE IRA plan, can I also contribute to another IRA in order to receive a larger tax deduction?

Because the [SIMPLE IRA](#) contribution limits are much lower than the [401\(k\)](#) limits, it might at first seem unfair that you can't get a larger a tax deduction with an additional IRA contribution.

However, the rules concerning IRA deductibility are actually similar for 401(k) plans and SIMPLE IRAs; therefore, even if you meet the compensation requirement to contribute to a [Traditional IRA](#), your [active-participant](#) status may affect your eligibility to deduct your Traditional IRA contribution. Bear in mind, however, that it is not only your active-participant status that affects your ability to deduct an IRA contribution; your marital status and [modified adjusted gross income](#) (MAGI) are also taken into consideration. It is possible, but not guaranteed, that as an active participant, you will be eligible to claim a deduction for your additional Traditional IRA contribution (or part thereof).

For more details, please see [Traditional IRA Deductibility Limits](#).

Beneficiaries

44. Can an IRA beneficiary roll the IRA over into another account and designate another beneficiary?

It depends on the provision of the IRA [plan document](#). Some (though very few) do not allow the designation of successor [beneficiaries](#). The good news is that most do. If the beneficiary designates a [successor](#) (second generation) beneficiary, the successor beneficiary must continue distributions based on the first-generation beneficiary's life expectancy. An exception applies to a spouse beneficiary who elects to treat the IRA as his or her own; this spouse beneficiary would use the rules that apply to the IRA "owner" - not the beneficiary.

By the way, when you communicate with your financial institution regarding the matter, you may want to use the term [transfer](#) instead of [rollover](#), just to make sure that the transaction is done properly. As you may know, once a beneficiary takes a [distribution](#) of inherited retirement (including IRA) assets, that amount cannot be rolled over unless the beneficiary is the spouse of the deceased retirement account owner. With a transfer, the assets are delivered directly to the financial institution for credit to the inherited IRA. The beneficiary must not take possession of the assets if he or she wants to keep them in an IRA.

To read more, check out [Moving Plan Assets: How To Avoid Mistakes](#).

45. Upon my death, will the beneficiaries of my IRA be compelled to take the entire amount in the IRA as ordinary income, forcing them into unusually high income tax brackets?

It depends. If the beneficiary of your [IRA](#) is your spouse, he or she will be eligible to transfer the amount to his or her own IRA, from which distributions are not required until age 70.5.

If the beneficiary is not your spouse, then the options available may be determined by the provisions in the IRA plan document. Most IRA custodians follow the regulations and will allow beneficiaries to take distributions over their life expectancies. Under this life-expectancy method, beneficiaries are required to withdraw only a certain amount each year. But since IRA custodians are not required to follow the guidelines set in the regulations, some IRA custodians require beneficiaries to take a lump-sum distribution after the death of the IRA owner. You should check with your current IRA custodian immediately to determine the options it allows for your IRA beneficiaries. If the options are not consistent with your estate-planning goals, then you may want to consider transferring the IRA to an IRA custodian that provides the options you find acceptable.

See [Inherited Retirement Plan Assets - Part One: Options for Beneficiaries](#) and [Inherited Retirement Plan Assets - Part Two: Important Dates for Beneficiaries](#) for information on beneficiary options and calculating the minimum amounts that should be withdrawn each year under the life expectancy method.

46. I am the beneficiary of an IRA and a Keogh. Can I combine them into one plan?

It depends. If you are a "spouse beneficiary" for both the [Keogh](#) and the IRA, then you may [transfer](#) or [roll over](#) the inherited IRA assets to your own [Traditional IRA](#), and you can also roll over the assets from the Keogh to the same IRA.

If you are a "non-spouse beneficiary" of the IRA, you must maintain the IRA assets in the inherited IRA. (For more on your distribution options, see [Inherited Retirement Plan Assets](#).) And, if you are a non-spouse beneficiary of the Keogh (a type of [qualified plan](#)) distributions that you receive cannot be rolled over.

If the employer that adopted the Keogh was a [sole proprietor](#), it may mean that the assets must be distributed from the Keogh as soon as possible, since there is no business to continue the maintenance of the Keogh plan. However, before you decide how to distribute the assets, be sure to talk to a competent tax professional about your options. Be sure to discuss ways to defer paying taxes on the amount, even if you are forced to distribute the balance from the Keogh. You may also want to discuss the matter with the financial institution that currently holds the assets.

47. Do I have to continue SEPPs for an inherited IRA?

You may discontinue the payments. Once the person who is taking the [substantially equal periodic payment](#) (SEPP) dies or becomes disabled, the SEPP can be discontinued. For this purpose, disability must satisfy the definition under Internal Revenue Code § 72(m)(7).

To learn more, read [Rules Regarding Substantially Equal Periodic Payments](#) and [How do IRA SEPPs work?](#)

48. Can the non-spouse beneficiary of an IRA name a successor beneficiary?

Whether or not the beneficiary of an [individual retirement account](#) (IRA) can name a successor beneficiary ([second generation beneficiary](#)) is determined by the provisions of the IRA plan document. In the last few years, most IRA plan documents that did not allow this option have been amended to allow beneficiaries to designate a succession of beneficiaries. Check with your IRA [custodian](#) regarding its IRA plan document provisions. If your current IRA custodian does not allow this option, you may be allowed to transfer your inherited IRA to one that does.

The [life expectancy](#) of the first generation beneficiary is always used to compute post-death distributions. This rule applies to second and subsequent generations of beneficiaries. For instance, if your child was the beneficiary of your inherited IRA and the child later designated someone else as the beneficiary of the IRA he or she inherited from you, then you, your child and the person he or she designated as beneficiary would all use your life expectancy to calculate [required minimum distribution](#) (RMD) amounts.

49. If a trust is named as the beneficiary of an IRA, can the trustee of that trust become the beneficiary without the IRA owner signing the Change of Beneficiary form?

While the IRA owner is alive, only the IRA owner can change the designated [beneficiary](#) of the IRA. Exceptions may apply if there is an attorney-in-fact, in which a [power of attorney](#) includes provisions that appoint that agent to act on the IRA owner's behalf. Similar exceptions apply to [conservators](#), who can be appointed by a court to take care of legal matters for an IRA owner who is unable to do so.

After the IRA owner's death, the designated beneficiary, including a trust beneficiary,

has the option of [disclaiming](#) the inherited assets. If the disclaimer is [qualified](#), the assets will generally pass to the other primary beneficiary. If there is no other primary beneficiary, the contingent beneficiary will be treated as the designated beneficiary. If there is no other primary or contingent beneficiaries, the beneficiary will be determined according to the default provisions of the IRA plan document.

Beneficiaries should consult with their tax professional before disclaiming inherited assets.

50. Does the five-year rule apply if a non-spouse inherits an IRA after the required beginning date and the required minimum distribution is not satisfied in the year of death?

The five-year rule applies only when the [IRA](#) owner dies before the [required beginning date](#) (RBD). If the IRA owner dies after the RBD and did not satisfy the [required minimum distribution](#) (RMD) for the year of death, the beneficiary must satisfy the RMD on behalf of the deceased. The amount must be calculated as though the IRA owner were still alive; this means the amount must be calculated using the uniform life table. The amount must be reported in the name of the deceased and the beneficiary and the tax identification number of the beneficiary.

All subsequent [distributions](#) should be calculated on a non-recalculated basis over the life expectancy of the beneficiary or the remaining [life expectancy](#) of the deceased, whichever is longer.