



1



2

# Presenter's Bio

20 years of professional trust administration - Focus in Elder Law & SNT Planning



## Peter J. Wall

Director of Fiduciary Services for True Link Financial Advisors, LLC



### Prior to joining True Link Financial Advisors, LLC:

- Developed and helped lead an Elder Law and SNT division of an \$80 billion nationally chartered trust bank
- Past President of the Centennial Estate Planning Council
- Member of the Board of Directors for Easter Seals
- Past President of VSA Access Gallery
- Member of the Academy of Special Needs Planners

### Special needs trusts, estate planning, taxation, and trust administration faculty member and presentations include:

- 2016, 2018, 2019, 2020, 2021, 2022 & 2023 Stetson National Conference on Special Needs Planning and Special Needs Trusts
- CBA 2012, 2014, 2015, 2017 & 2022 CBA Elder Law Retreat
- 2013 National Down Syndrome Congress
- 2015 46th Annual Autism Society National Conference
- 2022 Schwab IMPACT®
- 2017 & 2021 National Conference for National Guardianship Association
- 2019, 2020 Special Needs Alliance
- 2019, 2020 & 2021 National NAELA Conference
- 2020 CA NAELA
- 2020, 2021, 2022 & 2023 PFAC Annual Conference

3

# SECURE Act

## Setting Every Community Up for Retirement Enhancement

- Passed at the end of 2019
- Followed by the **SECURE Act 2.0 (passed 12/29/2022)**
  - **Securing a Strong Retirement Act of 2022**
  - **Retirement Improvement and Savings Enhancement to Supplement Healthy Investments for the Nest Egg Act (RISE & SHINE Act)**
  - **Enhancing American Retirement Now Act (EARN Act)**
- Eliminated RMD "stretch" for many beneficiaries
  - Generally, the inherited IRA was distributed over lifetime of IRA beneficiary
  - Now, most beneficiaries must withdraw all IRA funds (and pay applicable income taxes) within ten years of IRA owner's death (with certain exceptions)
- New RMD dates:
  - SECURE Act
    - RMDs begin at age 72 (previously 70 ½) if account owner turned 70 ½ after Jan 1, 2020
  - **SECURE Act 2.0**
    - RMDs begin at age 73 (2022), and 75 (2033)
- Applies to IRAs inherited January 1, 2020 +

4

# IRA Beneficiary Types

## Non-Designated Beneficiaries (NDBs)

- Estate, charity or non-qualified trust
  - “Non-qualified trust”: not irrevocable as of IRA account holder’s death, not valid under state law and beneficiaries are not specifically identified in trust document
- Withdrawal rules:
  - If account owner was younger than 72: 5 years
  - If account owner was 72+: RMDs over decedent’s life expectancy
    - a/k/a “ghost expectancy rule” or “at least as rapidly rule”

5

# IRA Beneficiary Types

## Non-Designated Beneficiaries (NDBs)

**IRA / 401(k) / etc. beneficiary designations on the forms/website of the custodian/investment advisor supersede estate planning documents (wills, trusts, etc.)**

### Example:

- Family member meets with SNT trustee, establishes either inter vivos or testamentary joinder for loved one with disability, passes away
- Family member didn’t name SNT as beneficiary, selecting their estate instead
- NDB rules apply (5 year or “ghost expectancy”)
- **Best practice tip: encourage grantors/family members to double check their estate plan and beneficiary designations on all IRAs, 401(k)s, etc.**

### Potential solutions:

- Petition to court (may not be binding to IRS)
- Private Letter Ruling (costly)

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

## Title search: Assigning a Qualified Retirement Plan

Also available as part of the eCourse

[Leaving Non-IRA Retirement Benefits to a Special Needs Trust](#)

First appeared as part of the conference materials for the  
20<sup>th</sup> Annual Changes and Trends Affecting Special Needs Trusts session  
"Leaving Non-IRA Retirement Benefits to SNTs"