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Details About Islamic Inheritance and IRA and 401(K) Plans by [Troywilliams](#)

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The area of IRAs and 401(k)s is full of mythology. Its important to clear this area up so that more Muslim families can know about the Islamic inheritance of the IRA.

These are plans with some perceived tax advantages, the ability to defer tax and for "traditional" IRA and 401(k) plans (there are other similar retirement plans), the money placed in the plan is not counted as income until later. The government set this up as a "retirement" plan, so the funds are meant to be used for retirement, essentially by force of law. So by a particular age (70 1/2) withdrawals become mandated based on a schedule published by the government. The government also discourages people from using these assets before the age of 59 1/2, though the assets can be withdrawn at any age (a penalty and taxes may apply).

The asset is "beneficiary designated." This means that specific people can be named as beneficiaries by contract. This also means its a non-probate asset, so your Islamic will template and last Islamic will and testament usually won't do anything to transfer these assets after you die.

The question then that many people have, is can a living trust be named as a beneficiary of a 401(k) and IRA? The answer is yes. You can name your Living Trust as the beneficiary of these plans, so that they can pass based on the Islamic Rules of Inheritance.

For Muslims, I have recommended this be done in many instances in my law practice. Its simple, and fulfills the goals of the fara'id.

The problem comes from some (perhaps a minority) of CPAs and financial advisors who recommend the surviving spouse be named as the beneficiary, or who claim that a Trust cannot be a beneficiary. That a trust cannot be a beneficiary is simply a myth.

The key concerns are 1) the spousal rollover and 2) the stretch out to beneficiaries. First, let me explain what they are and secondly, why they are often irrelevant to Muslims.

The spousal rollover is a rule that a spouse can pass on a retirement plan to the surviving spouse and roll it into her own IRA, and use her own date of birth. Since withdrawals must begin at 70 1/2 a younger surviving spouse can delay these withdrawals and allow the account to grow if she does not need the money right away. Giving this asset to the surviving spouse (without due consideration for others) is prohibited in Islam, and it should not be done. Inheritance is the right of all heirs, not just the spouse. You should not deny heirs their right to inheritance because of perceived tax advantages.

If it passed to other beneficiaries (the children for example) it would be treated as an "inherited IRA" and withdrawals must occur right away over the lifespan of the children, though at a different schedule than if they had it as their own retirement plan. It is likely rare that beneficiaries "stretch out" their IRA. They are likely to simply pay the tax and take whatever they can.

So to simplify, naming a trust as a beneficiary of a retirement plan is frequently fine. These assets must be treated as anything else, the right of the heirs under the Islamic Rules of Inheritance.

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