

Upon the death of an IRA accountholder, are the funds held in that IRA insured separately from a surviving spouse's IRA funds

FDIC--97--9

November 3, 1997

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This is in response to your letter about the FDIC deposit insurance coverage of an Individual Retirement Account ("IRA") after the death of the IRA accountholder when the IRA continues to be held in the decedent's name.

The FDIC Legal Division's position is that when a person's spouse dies and his or her IRA continues to be maintained in the decedent's name, the IRA will continue to be insured separately from the IRA owned by the decedent's spouse, who is the beneficiary of the decedent's IRA. This position is based primarily on the explicit provision in the Federal Deposit Insurance Act on the separate insurance of IRAs (12 U.S.C. 1821(a)) and the Internal Revenue Code ("IRC") which recognizes the continued existence of an IRA after the death of its owner (26 U.S.C. §§401(a)(9) & 408(a)(6)). We have said, however, that when the two accounts are commingled, the FDIC would insure the combined IRA to a limit of \$100,000.

In my opinion, there is no reason for this position to be limited to spousal beneficiaries, particularly because the IRC recognizes the continued existence of an IRA after the owner's death in situations where either a spouse or a non-spouse is the beneficiary of the IRA. Thus, in the situation raised in your letter, after the death of the IRA accountholder the IRA would continue to be insured up to \$100,000 (separately from other accounts of the beneficiaries of the IRA) unless and until the IRA ceases to be treated as the decedent's IRA account and is commingled with other accounts of the beneficiaries.

I hope this is fully responsive to your question. Feel free to call me at (202) 898-7349 with any other questions or comments.