

**701—302.47(422) Exclusion of pensions and other retirement benefits for disabled individuals, individuals who are 55 years of age or older, surviving spouses, and survivors.** For tax years beginning on or after January 1, 2023, an individual who is disabled, is 55 years of age or older, is a surviving spouse, or is a survivor with an insurable interest in an individual who would have qualified for the exclusion at the time of death is eligible for an exclusion of retirement benefits received in the tax year. More information can be found in rule 701—302.80(422) for the exclusion of military retirement pay and rule 701—302.23(422) for the exclusion of Social Security benefits.

**302.47(1) Retirement income.**

*a. Qualifying retirement income.* Generally, distributions from documented retirement plans meeting the qualification requirements in the Internal Revenue Code qualify for the retirement income exclusion. The following is a nonexclusive list of plans that qualify for the retirement income exclusion:

- (1) Traditional individual retirement account (IRA) authorized under Internal Revenue Code Section 408(a).
- (2) Roth individual retirement account (Roth IRA) authorized under Internal Revenue Code Section 408A.
- (3) Roth conversion income.
- (4) Simplified employee pension individual retirement arrangement (SEP-IRA) defined in Internal Revenue Code Section 408(k).
- (5) Savings incentive match plan for employees (SIMPLE IRA) defined under Internal Revenue Code Section 408(p).
- (6) Qualified deferred compensation plans including those authorized under Internal Revenue Code Section 401(k).
- (7) Eligible deferred compensation plans including those authorized under Internal Revenue Code Section 457(b).
- (8) A defined benefit plan, pension plan, profit-sharing plan, or stock bonus plan qualified under Internal Revenue Code Section 401 including IPERS and employee stock ownership plans (ESOPs).
- (9) Keogh plans or HR 10 plans.
- (10) Eligible combined plans described in Internal Revenue Code Section 414(x).

*b. Retirement income that does not qualify.* Generally, distributions from retirement plans that do not meet the qualification requirements in the Internal Revenue Code do not qualify for the retirement income exclusion. The following nonexclusive list of plans does not qualify for the retirement income exclusion:

- (1) Nonqualified deferred compensation plans described in Internal Revenue Code Section 409A.
- (2) Nonqualified annuities.

**302.47(2) Survivors having an insurable interest.**

*a. Insurable interest.* “Insurable interest” is a term used in life insurance which also applies to this rule and means an interest in the life of the person insured, arising from the relations of the party obtaining the insurance, either as credit of or surety for the insured, or from the ties of blood or marriage to the insured, as would justify a reasonable expectation of advantage or benefit from the continuance of the life of the insured. For purposes of this rule, the term “insurable interest” applies to a beneficiary receiving retirement benefits due to the death of a decedent under the same circumstances as if the beneficiary were receiving life insurance benefits as a result of the death of the decedent. Case law related to an insurable interest in the life insurance context is relevant in determining whether a beneficiary is a survivor with an insurable interest.

*b. Survivors with an insurable interest must be natural persons.* Only natural persons may be a survivor with an insurable interest for purposes of this exclusion.

*c. Parties deemed to have an insurable interest by relationship.* Some relationships are deemed so close that the individual will have an insurable interest in the decedent. These are spouses in each other’s lives, parents in the lives of their children, and children in the lives of their parents.

*d. Individuals other than close relations may be a survivor with an insurable interest.* Individuals other than those with a relationship with the decedent described in paragraph 302.47(2) “c” must establish that they had a pecuniary interest in the continuation of the life of the decedent at the time of death to

be considered a survivor with an insurable interest. The beneficiary has the burden of proof to show that the beneficiary had a reasonable expectation of an advantage or benefit that the beneficiary would have received with the continuance of the life of the decedent. Being named a beneficiary of the retirement plan alone does not establish that an individual is a survivor with an insurable interest.

EXAMPLE: A grandson was receiving college tuition regularly from his grandfather and received the grandfather's pension as a beneficiary of the grandfather after the grandfather's death. The grandson would be deemed to have an insurable interest in the benefits and would be eligible for the retirement income exclusion.

**302.47(3) *Disabled individuals.*** For purposes of this rule, a disabled individual is a person who is receiving benefits as a result of retirement from employment or self-employment due to disability. In addition, a person is considered to be a disabled individual if the individual is determined to be disabled in accordance with criteria established by the Social Security Administration or other federal or state governmental agency.

This rule is intended to implement Iowa Code sections 422.5 and 422.7.

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