



## State-By-State Analysis of Individual Retirement Accounts As Exempt Property\*

STATE	STATE STATUTE	IRA EXEMPT	ROTH IRA EXEMPT	SPECIAL STATUTORY PROVISIONS
<b>Alabama</b>	Ala. Code §19-3B-508	Yes	Yes	
<b>Alaska</b>	Alaska Stat. §09.38.017	Yes	Yes	The exemption does not apply to amounts contributed within 120 days before the debtor files for bankruptcy. <b>Alaska provides a specific exemption for inherited IRAs.</b>
<b>Arizona</b>	Ariz. Rev. Stat. Ann. §33-1126(B)	Yes	Yes	The exemption does not apply to a claim by an alternate payee under a QDRO. The interest of an alternate payee is exempt from claims by creditors of the alternate payee. The exemption does not apply to amounts contributed within 120 days before a debtor files for bankruptcy. <b>Arizona provides a specific exemption for inherited IRAs.</b>

\* Under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA), qualified plan, SEP, and SIMPLE assets are protected with no dollar limitation. IRAs and Roth IRAs are protected to \$1,000,000 (\$1,283,025 with COLAs). However, rollover assets in an IRA are not subject to the \$1,283,025 limit. BAPCPA only applies to assets in bankruptcy. One must look to state law for protection of IRA assets in state law (e.g., garnishment) actions or other creditor claims outside of bankruptcy.

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STATE	STATE STATUTE	IRA EXEMPT	ROTH IRA EXEMPT	SPECIAL STATUTORY PROVISIONS
<b>Arkansas</b>	Ark. Code Ann. §16-66-220	Yes	Yes	A bankruptcy court held that the creditor exemption for IRAs violates the Arkansas Constitution — at least with respect to contract claims.
<b>California</b>	Cal. Code of Civ. Proc. §704.115	Limited	Limited	IRA's are exempt only to the extent necessary to provide for the support of the judgment debtor when the judgment debtor retires and for the support of the spouse and dependents of the judgment debtor, taking into account all resources that are likely to be available for the support of the judgment debtor when the judgment debtor retires.
<b>Colorado</b>	Colo. Rev. Stat. §13-54-102	Yes	Yes	Any retirement benefit or payment is subject to attachment or levy in satisfaction of a judgment taken for arrears in child support; any pension or retirement benefit is also subject to attachment or levy in satisfaction of a judgment awarded for a felonious killing.
<b>Connecticut</b>	Conn. Gen. Stat. §52-321a	Yes	Yes	

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STATE	STATE STATUTE	IRA EXEMPT	ROTH IRA EXEMPT	SPECIAL STATUTORY PROVISIONS
<b>Delaware</b>	Del. Code Ann. Tit. 10, §4915	Yes	Yes	An IRA is not exempt from a claim made pursuant to Title 13 of the Delaware Code, which Title pertains to domestic relations order.
<b>Florida</b>	Fla. Stat. Ann. §222.21	Yes	Yes	IRA is not exempt from claim of an alternate payee under a QDRO or claims of a surviving spouse pursuant to an order determining the amount of elective share and contribution.  <b>Florida provides a specific exemption for inherited IRAs.</b>
<b>Georgia</b>	Ga. Code Ann. §44-13-100	Limited	Limited	IRA's are exempt only to the extent necessary for the support of the debtor and any dependent.
<b>Hawaii</b>	Haw. Rev. Stat. §651-124	Yes	Yes	The exemption does not apply to contributions made to a plan or arrangement within three years before the date a civil action is initiated against the debtor.

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<b>Idaho</b>	Idaho Code §55-1011	Yes	Yes	The exemption only applies for claims of judgment creditors of the beneficiary or participant arising out of a negligent or otherwise wrongful act or omission of the beneficiary or participant resulting in money damages to the judgment creditor.
<b>Illinois</b>	Ill. Rev. Stat. Ch. 735, Para. 5/12-1006	Yes	Yes	Inherited IRAs are not exempt. <i>In re: Marriage of Branit</i> , (Ill. App. Ct. 1st Dist.) 05/14/2015; <i>In re: Penny v. Hamm</i> , Bankr. N.D. Ill. (7/9/2018).
<b>Indiana</b>	Ind. Code §34-55-10-2	Yes	Yes	<b>Indiana provides a specific exemption for inherited IRAs.</b>
<b>Iowa</b>	Iowa Code §627.6	Yes	Yes	
<b>Kansas</b>	Kan. Stat. Ann. §60-2308	Yes	Yes	Inherited IRAs are not exempt. <i>In re: Mosby v. Clark</i> , 2015 WL 6610988 (D.C. Kan. 10/30/2015).

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<b>Kentucky*</b>	Ky. Rev. Stat. Ann. §427.150(2)(f)	Yes	Yes	The exemption does not apply to any amounts contributed to an individual retirement account if the contribution occurred within 120 days before the debtor filed for bankruptcy. The exemption also does not apply to the right or interest of a person in individual retirement account to the extent that right or interest is subject to a court order for payment of maintenance or child support.
<b>Louisiana</b>	La. Rev. Stat. Ann. Sects. 20-33(1) and 13-3881(D)	Yes	Yes	No contribution to an IRA is exempt if made less than one calendar year from the date of filing bankruptcy, whether voluntary or involuntary, or the date writs of seizure are filed against the account. The exemption also does not apply to liabilities for alimony and child support.
<b>Maine</b>	Me. Rev. Stat. Ann. Tit. 14, §4422(13) (E)	Limited	Limited	IRA's are exempt only to the extent reasonably necessary for the support of the debtor and any dependent.

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STATE	STATE STATUTE	IRA EXEMPT	ROTH IRA EXEMPT	SPECIAL STATUTORY PROVISIONS
<b>Maryland</b>	Md. Code Ann. Cts. & Jud. Proc. §11-504(h)	Yes	Yes	IRA's are exempt from any and all claims of creditors of the beneficiary or participant other than claims by the Department of Health and Mental Hygiene.
<b>Massachusetts</b>	Mass. Gen. L.Ch. 235, §34A	Yes	Yes	The exemption does not apply to an order of court concerning divorce, separate maintenance or child support, or an order of court requiring an individual convicted of a crime to satisfy a monetary penalty or to make restitution, or sums deposited in a plan in excess of 7% of the total income of the individual within 5 years of the individual's declaration of bankruptcy or entry of judgment.
<b>Michigan*</b>	Mich. Comp. Laws 600.6023	Yes	Yes	The exemption does not apply to amounts contributed to an individual retirement account or individual retirement annuity if the contribution occurs within 120 days before the debtor files for bankruptcy. The exemption also does not apply to an order of the domestic relations court

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STATE	STATE STATUTE	IRA EXEMPT	ROTH IRA EXEMPT	SPECIAL STATUTORY PROVISIONS
<b>Minnesota</b>	Minn. Stat. §550.37	Limited	Limited	Exempt to a present value of \$69,000 and additional amounts reasonably necessary to support the debtor, spouse or dependents.
<b>Mississippi</b>	Miss. Code Ann. §85-3-1	Yes	No	
<b>Missouri</b>	Mo. Rev. Stat. §513.430	Yes	Yes	If proceedings under Title 11 of United States Code are commenced by or against the debtor, no amount of funds shall be exempt in such proceedings under any plan or trust which is fraudulent as defined in Section 456.630 of the Missouri Code, and for the period such person participated within 3 years prior to the commencement of such proceedings. <b>Missouri provides a specific exemption for inherited IRAs.</b>
<b>Montana</b>	Mont. Code Ann. §31-2-106(3)	Yes	No	The exemption excludes that portion of contributions made by the individual within one year before the filing of the petition of bankruptcy which exceeds 15% of the gross income of the individual for that one-year period.

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STATE	STATE STATUTE	IRA EXEMPT	ROTH IRA EXEMPT	SPECIAL STATUTORY PROVISIONS
<b>Nebraska</b>	Neb. Rev. Stat. §25-1563.01	Limited	Limited	The debtor's right to receive IRAs and Roth IRAs is exempt to the extent reasonably necessary for the support of the Debtor and any dependent of the Debtor.
<b>Nevada</b>	Nev. Rev. Stat. §21.090(1)(r)	Yes	Yes	The exemption is limited to \$500,000 in present value held in an individual retirement account, which conforms with Section 408 and 408A.
<b>New Hampshire</b>	N.H. Tit. 52 §511:2	Yes	Yes	Exemption only applies to extensions of credit and debts arising after January 1, 1999.
<b>New Jersey</b>	N.J. Stat. Ann. 25:2-1(b)	Yes	Yes	Inherited IRAs are excluded in bankruptcy. <i>In re: Norris</i> , 550 B.R. 271 (Bankr. D. N.J. 2016); <i>In re: Andolino</i> , 525 B.R. 588 (Bankr. D. N.J. 2015).
<b>New Mexico</b>	N.M. Stat. Ann. §42-10-1, §42-10-2	Yes	Yes	A retirement fund of a person supporting himself / herself or another person is exempt from receivers or trustees in bankruptcy or other insolvency proceedings, fines, attachment, execution or foreclosure by a judgment creditor.

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<b>New York</b>	N.Y. Civ. Prac. L. and R. §5205(c)	Yes	Yes	Additions to individual retirement accounts are not exempt from judgments if contributions were made after a date that is 90 days before the interposition of the claim on which the judgment was entered.
<b>North Carolina</b>	N.C. Gen. Stat. §1C-1601(a)(9)	Yes	Yes	<b>North Carolina provides specific exemptions for inherited IRAs.</b>
<b>North Dakota</b>	N.D. Cent. Code §28-22-03.1(7)	Limited	Limited	The account must have been in effect for a period of at least one year. Each individual account is exempt to a limit of up to \$100,000 per account, with an aggregate limitation of \$200,000 for all accounts. The dollar limit does not apply to the extent the debtor can prove the property is reasonably necessary for the support of the debtor, spouse, or dependents.



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<b>Ohio*</b>	Ohio Rev. Code Ann. §2329.66(A)(10)	Yes	Yes	SEPs and SIMPLE IRAs are not exempt. <b>Ohio provides a specific exemption for inherited IRAs.</b>
<b>Oklahoma</b>	Okla. Stat. Tit. 31, §1(A)(20)	Yes	Yes	
<b>Oregon</b>	OR. Rev. Stat. 18.358	Yes	Yes	
<b>Pennsylvania</b>	42 PA. Cons. Stat. §8124	Yes	Yes	The exemption does not apply to amounts contributed to the retirement fund in excess of \$15,000 within one year before the debtor filed for bankruptcy.
<b>Rhode Island</b>	R.I. Gen. Laws §9-26-4	Yes	Yes	The exemption does not apply to an order of court pursuant to a judgment of divorce or separate maintenance, or an order of court concerning child support.



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<b>South Carolina</b>	S.C. Code Ann. §15-41-30	Yes	Yes	Specifically provides for exemption of inherited IRAs.
<b>South Dakota</b>	S.D. Cod. Laws 43-45-16; 43-45-17	Limited	Limited	Exempts "certain retirement benefits" up to \$1,000,000. Cites §401(a)(13) of Internal Revenue Code (Tax-Qualified Plan Non-Alienation Provision). Subject to the right of the State of South Dakota and its political subdivisions to collect any amount owed to them.
<b>Tennessee*</b>	Tenn. Code Ann. §26-2-105	Yes	Yes	Not exempt from claims of an alternate payee under a QDRO.
<b>Texas</b>	Tex. Prop. Code Ann. §42.0021	Yes	Yes	Texas provides a specific exemption for inherited IRAs.



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<b>Utah</b>	Utah Code Ann. §78B-5-505	Yes	Yes	The exemption does not apply to amounts contributed or benefits accrued by or on behalf of a debtor within one year before the debtor files for bankruptcy.
<b>Vermont</b>	Vt. Stat. Ann. Tit. 12 §2740(16)	Yes	Yes	Non-deductible traditional IRA contributions plus earnings are not exempt.
<b>Virginia</b>	Va. Code Ann. §34-34	Yes	Yes	Exempt from creditor process to the same extent permitted under federal bankruptcy law. An IRA is not exempt from a claim of child or spousal support obligations.
<b>Washington</b>	Wash. Rev. Code §6.15.020	Yes	Yes	
<b>West Virginia</b>	W.Va. Code §38-10-4	Yes	No	



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<b>Wisconsin</b>	Wis. Stat. §815.18(3)(j)	Yes	Yes	The exemption does not apply to an order of court concerning child support, family support or maintenance, or any judgments of annulment, divorce or legal separation.
<b>Wyoming</b>	Wyo. Stat. §1-20-110	No	No	

\* Kentucky, Michigan, Ohio, and Tennessee: The U.S. Court of Appeals for the Sixth Circuit ruled in [\*Lampkins v. Golden\*](#), 28 Fed. Appx. 409 (6<sup>th</sup> Cir. 2002) that a Michigan statute exempting SEPs and IRAs from creditor claims was preempted by ERISA. The decision appears, however, to be limited to SEPs and SIMPLE-IRAs.