

This chart accompanies “Protection From Creditors for Retirement Plan Assets,” in the January 2014 issue of *The Tax Adviser*.

State-by-state analysis of IRAs as exempt property

State	State Statute	IRA Exempt	Roth IRA Exempt	Special Statutory Provisions
Alabama	Ala. Code §19-3B-508	Yes	Yes	
Alaska	Alaska Stat. §09.38.017	Yes	Yes	The exemption does not apply to amounts contributed within 120 days before the debtor files for bankruptcy.
Arizona	Ariz. Rev. Stat. §33-1126(B)	Yes	Yes	The exemption does not apply to a claim by an alternate payee under a qualified domestic relations order (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.
Arkansas	Ark. Code §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.
California	Cal. Code of Civ. Proc. §704.115	Partly	No	IRAs 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.
Colorado	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.
Connecticut	Conn. Gen. Stat. §52-321a	Yes	Yes	
Delaware	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, the title that pertains to domestic relations orders.
Florida	Fla. Stat. §222.21	Yes	Yes	An IRA is not exempt from a 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. Florida provides a specific exemption for inherited IRAs.
Georgia	Ga. Code §44-13-100	Yes	No	Distributions from IRAs are exempt only to the extent necessary for the support of the debtor and any dependent.

State-by-state analysis of IRAs as exempt property

State	State Statute	IRA Exempt	Roth IRA Exempt	Special Statutory Provisions
Hawaii	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 of a bankruptcy or a civil action is initiated against the debtor.
Idaho	Idaho Code §55-1011	Yes	Yes	The exemption applies only 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.
Illinois	735 Ill. Comp. Stat. 5/12-1006	Yes	Yes	
Indiana	Ind. Code §34-55-10-2(6)	Yes	Yes	
Iowa	Iowa Code §627.6(8)	Yes	Yes	
Kansas	Kan. Stat. §60-2308	Yes	Yes	
Kentucky*	Ky. Rev. Stat. §427.150(2)(f)	Yes	Yes	The exemption does not apply to any amounts contributed to an IRA 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 an IRA to the extent that right or interest is subject to a court order for payment of maintenance or child support.
Louisiana	La. Rev. Stat. §§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.
Maine	Me. Rev. Stat. tit. 14, §4422(13)(F)	Partly	No	IRAs are exempt only to the sum of \$15,000 or to the extent reasonably necessary for the support of the debtor and any dependent.
Maryland	Md. Code Cts. & Jud. Proc. §11-504(h)	Yes	Yes	IRAs 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.
Massachusetts	Mass. Gen. Laws ch. 235, §34A	Yes	Yes	The exemption does not apply to a court order concerning divorce, separate maintenance or child support, or a court order 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 five years of the individual's declaration of bankruptcy or entry of judgment.

State-by-state analysis of IRAs as exempt property

State	State Statute	IRA Exempt	Roth IRA Exempt	Special Statutory Provisions
Michigan*	Mich. Comp. Laws §600.6023(j)	Yes	Yes	The exemption does not apply to amounts contributed to an IRA 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 or nondeductible contributions to an IRA.
Minnesota	Minn. Stat. §550.37(24)	Yes	Yes	Exempt to a present value of \$69,000 and additional amounts reasonably necessary to support the debtor, spouse, or dependents.
Mississippi	Miss. Code §85-3-1	Yes	No	
Missouri	Mo. Rev. Stat. §513.430.1	Yes	Yes	If proceedings under Title 11 of the U.S. Code are commenced by or against the debtor, no amount of funds shall be exempt in such proceedings under any plan or trust that is fraudulent as defined in Section 428.024 of the Missouri Revised Statutes, and for the period such person participated within three years prior to the commencement of such proceedings.
Montana	Mont. Code §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 that exceeds 15% of the gross income of the individual for that one-year period.
Nebraska	Neb. Rev. Stat. §25-1563.01	Partly	No	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.
Nevada	Nev. Rev. Stat. §21.090(1)(r)	Yes	Yes	The exemption is limited to \$500,000 in present value held in an IRA that conforms with Sec. 408 or 408A.
New Hampshire	N.H. Rev. Stat. 52 §511:2	Yes	Yes	Exemption applies only to extensions of credit and debts arising after Jan. 1, 1999.
New Jersey	N.J. Stat. 25:2-1(b)	Yes	Yes	
New Mexico	N.M. Stat. §§42-10-1, -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.
New York	N.Y. C.P.L.R. 5205(c)	Yes	Yes	Additions to IRAs 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.
North Carolina	N.C. Gen. Stat. §1C-1601(a)(9)	Yes	Yes	Specific exemption for inherited IRAs.

State-by-state analysis of IRAs as exempt property

State	State Statute	IRA Exempt	Roth IRA Exempt	Special Statutory Provisions
North Dakota	N.D. Cent. Code §28-22-03.1(7)	Yes	Yes	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.
Ohio*	Ohio Rev. Code §2329.66(A)(10)	Yes	Yes	SEPs and SIMPLE IRAs are not exempt. Specific exemption for inherited IRAs.
Oklahoma	Okla. Stat. tit. 31, §1(A)(20)	Yes	Yes	
Oregon	Or. Rev. Stat. §18.358	Yes	Yes	
Pennsylvania	42 Pa. Cons. Stat. §8124(b)(1)(ix)	Yes	Yes	The exemption does not apply to amounts contributed to the retirement fund in excess of \$15,000 or within one year before the debtor filed for bankruptcy.
Rhode Island	R.I. Gen. Laws §9-26-4(11)	Yes	Yes	The exemption does not apply to a court order pursuant to a judgment of divorce or separate maintenance, or a court order concerning child support.
South Carolina	S.C. Code §15-41-30	Yes	Yes	Specific exemption for inherited IRAs.
South Dakota	S.D. Codified Laws 43-45-16; 43-45-17	Yes	Yes	Exempts "certain retirement benefits" up to \$1 million. Cites Sec. 401(a)(13). Subject to the right of the state of South Dakota and its political subdivisions to collect any amount owed to them.
Tennessee*	Tenn. Code §26-2-105	Yes	Yes	Not exempt from QDROs.
Texas	Tex. Prop. Code §42.0021	Yes	Yes	Specific exemption for inherited IRAs.
Utah	Utah Code §78-23-5(1)(a)(xiv)	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.
Vermont	Vt. Stat. tit. 12, §2740(16)	Yes	Yes	Nondeductible traditional IRA contributions plus earnings are not exempt.
Virginia	Va. Code §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.
Washington	Wash. Rev. Code §6.15.020	Yes	Yes	
West Virginia	W.Va. Code §38-10-4	Yes	No	

State-by-state analysis of IRAs as exempt property

State	State Statute	IRA Exempt	Roth IRA Exempt	Special Statutory Provisions
Wisconsin	Wis. Stat. §815.18(3)(j)	Yes	Yes	The exemption does not apply to a court order concerning child support, family support, or maintenance, or any judgments of annulment, divorce, or legal separation.
Wyoming	Wyo. Stat. §1-20-110	Partly	Partly	Exempt to the extent payments are made to the fund while solvent.

* Kentucky, Michigan, Ohio, and Tennessee: The Sixth Circuit ruled in *Lampkins v. Golden*, 28 Fed. Appx. 409 (6th 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.