Waiting to create separate shares until December 31, 2010, does not change the fact that Ben has a designated beneficiary. Separate shares are created on December 31, 2010. For 2010 and subsequent years, Pete and Jane can use their individual life expectancies to calculate RMDs for their separate accounts.

Caution. If one of the beneficiaries is a non-individual (e.g., a charity), a separate share (or the charity could be "cashed out") should be created by September 30 of the year following the year of death to avoid the entire Roth IRA as being treated as not having a designated beneficiary (see Q 5:27).

Q 5:46 May separate accounts be established when a trust is named as the beneficiary of a Roth IRA?

The regulations state that separate shares created by a trust instrument will not be respected as separate shares for RMD purposes. [Treas. Reg. § 1.401(a)(9)-4, Q&A 5(c)] In Letter Rulings 200317041, 200317043, and 200317044 (Apr. 25, 2003), even though the beneficiary designation directed the trust and the Roth IRA to be segregated into separate accounts, separate shares were not respected (see Q 7:18) and the oldest trust beneficiary's life expectancy had to be used. However, on March 29, 2005, the IRS released Letter Ruling 200537044, which clarifies that if a beneficiary designation form names separate shares for each individual beneficiary of a trust, each trust beneficiary's life will be used for purposes of determining the measuring life under the required minimum distribution rules. In Letter Ruling 200537044, the IRS allowed each individual beneficiary of each trust share to use his or her individual life expectancy to calculate required minimum distributions for his or her share of the IRA. Upon the death of the trustor, the trust created separate subtrusts for each beneficiary. Each separate trust that was created under the master trust instrument was named a beneficiary of the IRA (e.g., 50 percent to Subtrust A and 50 percent to Subtrust B).

Q 5:47 If a non-individual beneficiary is named as the beneficiary of a portion of a Roth IRA and that beneficiary cannot be cashed out, must the entire Roth IRA be liquidated under the five-year rule?

It depends. If a non-individual is included among the multiple beneficiaries of a Roth IRA and it is impossible to cure that beneficiary by September 30 of the year following the year of the Roth IRA owner's death, the distribution period is determined by reference to the beneficiary with the shortest life expectancy. Inasmuch as a non-individual has no life expectancy, the entire designation is infected and therefore the entire Roth IRA will have to be distributed under the five-year rule (see Q 5:12). [Treas. Reg. § 1.401(a)(9)-5, Q&A 7] If, however, it is possible to cash out or segregate that portion of the Roth IRA payable to the non-individual beneficiary and create a separate account (see Q 5:45) by September 30 of the year following the year of the owner's death, the remaining individual beneficiaries should be entitled to life expectancy distributions.