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THE WHITE PAPER

Strategies for Managing Your Assets

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Bequest or Beneficiary Designation: An Important Distinction for Estate Planning

The scenario plays out over and over again in attorneys' offices: A family brings a parent's will to be probated. The will is complete, well thought out, and takes into consideration current tax law. But under closer examination, the attorney discovers that the deceased's estate plan doesn't work. Why? Because a substantial portion of the parent's assets pass by beneficiary designation and are not controlled by a will.

Increasingly, investors have the opportunity to name beneficiaries directly on a wide range of financial accounts, including employer-sponsored retirement savings plans, IRAs, brokerage and bank accounts, insurance policies, U.S. savings bonds, mutual funds, and individual stocks and bonds.

The upside of these arrangements is that when the account holder dies, the monies go directly to the beneficiary named on the account, bypassing the sometimes lengthy and costly probate process. The "fatal flaw" of beneficiary-designated assets is that because they are not considered probate assets, they pass "under the radar screen" and trump the directions spelled out in a will. This all too often leads to unintended consequences -- individuals who you no longer wish to inherit property do, some individuals receive more than you intended, some receive less, and ultimately, there may not be enough money available to fund the bequests you laid out in your will.

Unnamed or Lapsed Beneficiaries

Not naming beneficiaries or failing to update forms if a beneficiary dies can have its own unintended repercussions, which can be particularly damaging in the case of retirement accounts. For instance, if the beneficiary of an IRA is a spouse and he or she predeceases the account holder and no contingent (second in line) beneficiary(ies) are named, when the account holder dies, the IRA typically would pass to the estate instead of the children directly as the account holder likely would have preferred. This not only would generate a tax bill for the children, it would also prevent them from stretching IRA distributions out over their lifetime.

Planning Priorities

Given these very real consequences, it is important to work with an estate planning professional to ensure coordination between your beneficiary-designated assets and the disposition of property as it is spelled out in your will.

You should also review your beneficiary designations on a regular basis -- at least every few years -- and/or when certain life events occur, such as the birth of a child, the death of a loved one, a divorce or a marriage, and update them, as necessary, in accordance with your wishes.

This information is not intended as legal or tax advice and should not be treated as such. You should contact your estate planning and/or tax professional to discuss your personal situation.

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