

## Naming Beneficiaries of Insurance Policies and Retirement Plans

One estate planning concern that is shared by people from all walks of life is who gets what when you pass on. While some individuals logically may assume that a last will and testament is the only official forum to express such decisions, that is not always the case. Often, an equally important issue is determining who to name as beneficiary on life insurance policies, employer-sponsored retirement plan accounts and IRAs, since beneficiaries of these assets are paid directly as named, regardless of what may be spelled out in a will.

Let's review some general transfer guidelines for these types of assets.

### Life Insurance

No matter who is designated as the beneficiary of a life insurance policy, the individual(s) will receive the death benefit proceeds income tax free. Unlike property disposed of in a will, if the beneficiary designation form is properly completed, insurance proceeds do not go through probate.

For many married couples, a surviving spouse will be the most logical beneficiary. However, if it is determined that a spouse would not have the ability to manage a large sum of money, a trust may be a prudent beneficiary choice. The trustee (often a legal entity rather than an individual) would then take charge of managing, investing and disbursing the policy proceeds for the benefit of the surviving spouse.

Another important consideration is naming contingent or secondary beneficiaries. This means that if the primary beneficiary is no longer living, the insurance proceeds would go to another named individual or trust. If there are no surviving beneficiaries, then your beneficiary is generally the "estate of the insured," which means the death benefits end up being probated and ultimately distributed according to the instructions of the decedent's last will and testament. If an individual dies without a valid will (intestate), then the order of legal beneficiaries to whom assets are distributed is specified by state law.

### Employer-Sponsored Retirement Plans and Individual Retirement Accounts (IRAs)

The law requires that a spouse be the primary beneficiary of a 401(k) or a profit-sharing account unless he/she waives that right in writing. A waiver may make sense in a second marriage if, for instance, a new spouse is already financially set or if children from a first marriage are more likely to need the money.

Single people can name whomever they choose as beneficiaries of retirement accounts, and nonspouse beneficiaries are now eligible for a tax-free transfer to an IRA.

Also, the IRS has issued regulations that dramatically simplify the way certain distributions affect IRA owners and their beneficiaries. Consult your tax advisor on how these rule changes may affect your situation.

## Naming Children May Not Be Best

Because insurance companies, pension plans and retirement accounts may not pay death benefits to minors, when children are factored into the estate planning mix, a guardian, trust or trustee should be named beneficiary to ensure competent management of the proceeds. By naming a children's trust as a beneficiary, for example, the proceeds could be invested and managed by a competent trustee (a person or institution) you choose. A revocable living trust could also be named as a beneficiary, which would keep the proceeds out of probate.

To summarize, when naming beneficiaries, consider:

- The ability of the beneficiary to manage assets. Perhaps a trust set up in the person's name would be better than a direct transfer.
- Naming contingent beneficiaries. Should something happen to your primary beneficiary, the contingent beneficiary would receive your assets.
- The age of the beneficiary. Many policies and plans will not directly transfer assets to minors until a trustee or guardian is approved by a court.
- Employer-sponsored retirement plans. Unless waived by the spouse in writing, the law requires a spouse to be the primary beneficiary of the account.

## Keep Your Plan Up-to-Date

After completing estate plans and wills, it is important to review and adjust beneficiary designations as needed to ensure that your estate plan accurately reflects your intentions. Remember, outdated beneficiary designations (e.g., ex-spouses) could misdirect the intended flow of an entire estate plan.

As is always the case with estate planning, consult with qualified professionals concerning your particular situation in order to ensure that your beneficiary designations are in tune with your goals.

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