


# Beneficiary Designations – How to get back at your family!

Presented by  
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# On our Death Bed ...



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# Do want your family to forget who you were?



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When the family says your name will their expression look like this?




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**Two Broad Categories**

- **Insurance and annuities**
- **Retirement accounts**



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**Client A – What can happen...**

- 50 year old divorced client
- Two teenage clients, 17 and 15 years old
- Existing term insurance for \$500,000
- Recently updated will creating testamentary trusts for the children
- Tough financial situation
- Updates the beneficiary designation for the insurance to the children
- Client is successful in committing suicide

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## Now What??

- Notify carrier that the children are under age
- Carrier does not care that there is a trust or that the children are under age
- Guardians and Executor create non-judicial agreement to place the funds in an UTMA account – not the trust
- Could have been a disaster for all and cost the family about \$5,000 in additional attorney fees.



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## History of Beneficiary Designations

- It has been around as long as life insurance – centuries.
- Morphed and changed as society has evolved and with the development of retirement plans in the 20<sup>th</sup> century.
  - Life Insurance
  - Retirement Accounts
  - Annuities
  - VEBA accounts
  - 529 plans
  - Group benefits



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## Who Should Get What?

- It has become much more complex as to what asset should go to what person, charity or entity.
- I am sure there are ticking time bombs in your files like there are in mine! The wrong person will get the wrong asset at the wrong time!



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## Beneficiary Designations Matter!

- The designation will usually trump other planning
- The wrong person can get the asset
- Tax consequences can be brutal
- Planning consequences can be a disaster
- Additional fees and time to unwind the mess

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## Life Insurance – What will work

- Simple yet complicated – Spouse named as Primary
  - The primary beneficiary to the spouse
    - What if the client has a taxable estate? Not so good
    - What if the beneficiary is disabled and on Medicaid? Ouch!
    - What if the spouse was the **former** spouse? Not so good!
    - What if the spouse is a new spouse and s/he also gets the estate while leaving the first spouses children with nothing?

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## Life Insurance – Multiple Primary Beneficiaries

- Naming multiple persons as primary beneficiary –
  - Clear designation of complete name, relationship to the insured and percentage – to add up to 100%
  - What happens if one of the beneficiaries is deceased?
    - Not always per stirpes, or contingent beneficiaries; could go to the remaining named, living beneficiaries. Be clear and get written confirmation from the Custodian, brokerage firm or carrier.

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### Some Suggested Beneficiary Designations

- Spouse- Primary; Children – Contingent
- “I designate “Name of Custodian”, address, Social Security #000-00-0000, as custodian of the funds payable to the minor child named above, under the Washington Uniform Transfers to Minors Act.”
- “Trust established under my Last Will and Testament for the benefit if my children.”

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### Life Insurance - Trust named as beneficiary

- RLT, ILIT, Testamentary Trust, charitable trust, etc?
  - Each type of trust has it's own unique challenges with the beneficiary designation.
  - Who is the trustee? Is there a tax problem if the beneficiary is not named correctly and the beneficiary designation goes to the wrong entity?
  - Make sure the full name and the date of trust are listed with the insurer. Name the trustee and their contact information.
  - Multiple Trustees – name all and what if the trust is named as contingent beneficiary.

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### Life Insurance – Corporate Policies

- Buy-Sell Insurance – Entity Purchase or Cross Purchase - Do the policy ownership and beneficiary designations match the buy-sell agreement and current company ownership?
- Split Dollar polices – covering multiple needs – reviewing the designations to make sure they match the current plan and goals .
- Key person insurance – Is the beneficiary still current? Company changes names or is merged...
- Collateral Assignment of death benefit – the bank

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## Retirement Accounts +++

- IRA
- 401(k), 403(b), 451, 457...
- Pension plans (Defined Benefit)
- Simple IRA
- SEP – IRA
- Keogh
- Health savings Account
- 529 plans
- Coverdale
- VEBA



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## How many accounts do you have?



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## Client B – Yikes

- 88 year old widower - disabled client dies
- Client had three step children – have been his “children for over 60 years - one of which is disinherited
- Mom passed away 6 years ago
- My client had the POA for 5 years
- Parent dies with an updated will leaving the two step children as beneficiaries
- Retirement plan assets at Boeing ...



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### Retirement accounts – How complex can we get?

- Basics – Who should receive the account?
- Spouse?
- Child?
- Charity?
- Trust?
- Non-family member?

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### Retirement Accounts – Beneficiary Designations

- Tax deferred benefits can spell tax disaster for beneficiaries
- Naming a person as primary or contingent beneficiary is best to provide the continued tax deferral and "Stretch" benefits.
- What if the beneficiary is under age? Disabled? On Medicaid? At risk?
- Naming a trust as beneficiary can also be a nightmare?
  - Qualified trust language which provides the trustee power to manage IRA distributions and continue the tax benefits.

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### Spouse as Beneficiary of retirement account

- Named outright – usually transfers to an inherited IRA – What if the surviving spouse is younger? Reduced RMD if transferred to her name only.
- What if the surviving spouse is older – keep as an inherited IRA to reduce the RMD.
- Multiple IRA's – when does it make sense to have and what are the tax consequences?

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## Children as Beneficiaries

- Children / grandchildren as beneficiaries – generation skipping tax? When and how much will be applied?
- Roth accounts – is this the perfect account to pass on to the next generation? Why? Problems?
- Trust accounts for children that hold qualified assets –
  - Qualified trust language or else there could be a five year tax payment rather than the stretch IRA
- Multiple IRA accounts with different beneficiaries... an idea that can work for some families.

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## Qualified Trust Language

- Various options and fairly flexible
- RMD must be noted and detailed fairly carefully
- If the trust is multigenerational make sure to note this in the language that there may be a final payment or other protection against perpetuities.
- Make sure the custodian (Schwab, Fidelity, LPL, etc.) accept the language before it is tested at death! Be careful to have flexible custodian language...
- Special needs trusts have to be carefully written to allow the RMD to flow to a separate Special Needs trust or to the beneficiary if it does not preclude benefit eligibility.

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## Sample “Qualified” Trust Language

- Notwithstanding the foregoing, in the event that any Trust hereunder is the recipient of 401(k), 403(b), IRA or other pension benefits as designated Beneficiary of such accounts owned by the decedent, the Trustee shall determine the amount of the Required Minimum Distribution (RMD) to be paid to the Beneficiary in order to meet the requirements for continued qualification of this Trust as a qualified Beneficiary of the IRA under IRC §409(a)(9). In the event that such qualification requires the segregation of said assets with a separate fund, my Trustee is specifically authorized to take the necessary steps to qualify, maintain the integrity and intent of this Trust to the extent possible. The Trustee shall make payments of the RMD amount to the Beneficiary on or before December 31 of each year, with any such distribution without violating the terms of the Trust, so as to continue as a Qualified IRA Beneficiary. The first such distribution shall be made on or before December 31 of each year following the year of the account holder’s death. All distributions made from this Trust to the Beneficiary shall first be treated as distributions to meet the RMD requirements to the extent possible.

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### Retirement Accounts – Charitable Planning

- How are charities treated if named as beneficiaries on a retirement account?
- Tax leverage to the max – Tax deferred contributions, tax deferred growth, tax free gift! Does not get any easier than that!
- Naming the charity on the beneficiary form. Make certain the charity gives you the exact name and tax id number.
- The charity should know your intentions for the funds
- The heirs (spouse / children) should know of your intentions.

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### The Future Legislative Risk to Beneficiary Designations

- Over-funded – "High Account Balance" penalties
  - May not qualify for a stretch
  - No stretch IRA options for any non-spouse beneficiary
- Roth accounts that still may have a tax imposed on non-spouse beneficiaries

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### How will the money flow and be taxed?

- How the beneficiary is named and who receives it will be a key on stretch provisions and options for the beneficiaries.



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## Beneficiary Review Tool – Use It

- Send to client before your meeting
- Review with client during your review
- Have copies of the actual beneficiary forms in your file.
- If there is a chapter change in a clients life reach out and request a review of their beneficiary designations
- Suggest charitable giving as an added option when you review the designations.
- You will be the hero for bringing it up.

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## Definitely a team sport!

- Communication is key among the advisors and the client
- Whenever an advisor has a review with their client they should review the beneficiary information.
  - More work? Yes! More Fees? Maybe?
  - Consolidating accounts...Make it easy!

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## Don't you want your family to celebrate your life? Update your beneficiary designations – TODAY!



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