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THE NEED TO REVIEW YOUR BENEFICIARY DESIGNATIONS

Do you have any of the following?

Individual Retirement Accounts (IRAs)

Life insurance policies

Stocks, bonds, other financial instruments

Retirement plans through your employment (e.g. 401k, defined benefit plan, 403(b), military retirement, federal retirement, etc.)

Do you know who the beneficiaries of these assets are in the event you die? Often, the beneficiaries of these assets are governed by beneficiary designation forms. If you are completing your estate plan or have been recently divorced, you need to review your beneficiary designations.

Beneficiary Designations and Estate Planning

Even though you have a will or a trust, it may not govern who will receive certain assets when you die. IRAs, life insurance policies, stocks, and certain retirement plans allow the owner to designate the beneficiary through a beneficiary designation form. This means that the asset may not be distributed by your will or trust. If you would like an asset to be distributed via your trust, your trust would need to be the named beneficiary of the asset. Reviewing your beneficiary designations is one of the most important steps in completing your estate plan.

Beneficiary Designations and Divorce

Clients often overlook the importance of reviewing their beneficiary designations after they have been divorced. This can be a costly mistake. In a recent United States Supreme Court case, the Court held that plan administrator performed its duty by paying retirement benefits to an ex-spouse, even though the ex-spouse waived the retirement benefits in the divorce decree. *Kennedy v. Plan Administrator for DuPont Savings and Investment Plan*, 1295 S.Ct 865 (2009). Here's what happened:

William Kennedy was a participant in his company's retirement plan. While married, William named his wife, Liv Kennedy, as a beneficiary of his retirement plan. William and Liv later divorced. In the divorce decree, Liv disclaimed her interest in William's retirement plan. William neglected to change his beneficiary designation with his company. William died. Even though the divorce decree stated that Liv disclaimed her interest, Liv still received William's retirement funds, and William's estate received nothing.

Beneficiary Designations Trump Your Will

When is the last time you checked to see who you named as the beneficiary, or beneficiaries, on your retirement accounts, life insurance policies and annuities?

Why Review Beneficiary Designations?

Many people neglect to update their beneficiary designations after a marriage, divorce or other change in their family situation. The problem with this; the beneficiary designation is a legally binding document so regardless of your current relationship status, the asset will go to the person you named in the beneficiary designation whenever you last updated it.

Beneficiary Designations Trump the Will

Your will or trust will not override what is named in the beneficiary designation on a life insurance policy, annuity, or retirement account (like an IRA or 401k plan). The beneficiary designation takes precedence, or as one poker player put it "the beneficiary designation trumps the will".

For this reason, it is important you update your beneficiary designations to reflect your current wishes.

How to Review Beneficiary Designations

Make a list of each retirement account, life insurance policy and annuity that you have. Add two columns to your list; one for the beneficiary and one for a date. For each account or policy write down the beneficiary and the date it was last updated.

Keep this list in a binder or file folder along with your other important documents. Regardless of any changes, make it a habit to pull this binder out once a year and review the information in it.

What Does this Mean For You?

Whether you are completing or reviewing your estate planning, or whether you have recently been through a divorce, it is important that you review your beneficiary designations forms to ensure that the desired beneficiaries are named. You may also benefit from seeking competent professional advice regarding the tax and legal ramifications of naming a beneficiary.

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