



The Importance of Naming a Beneficiary and Reviewing Current Beneficiary Forms

It's important to name beneficiaries and contingent beneficiaries when you enroll in a company retirement plan such as a 401(k), purchase an annuity or life insurance policy or open an IRA. Once you've made those choices, make sure the forms are kept with all your important documents.

Beneficiary designations are a necessary part of planning for the future for you and your loved ones. Although they are not required, neglecting to name a specific person or entering "estate" as your beneficiary could result in your assets passing through the probate process. Once retirement funds go through probate, they have to be distributed either immediately or within five years, leaving your heirs without the ability to stretch the length of time for withdrawals. Furthermore, if no beneficiary is named, the estate may be forced to immediately pay income tax on the funds, often at an unfavorable tax rate.

Another common mistake people make is leaving unintended beneficiaries on 401(k)s, IRAs or life insurance policies. Anytime you experience a life event, such as a marriage, death, divorce, birth or adoption, you should review both the primary and contingent beneficiaries on your policies and investments. Outdated beneficiary choices could result in unintended heirs and/or adverse tax consequences, especially on retirement funds.

Take a look at the following examples:

"Ed Slott's IRA Advisor" reports on the case of Kari Kennedy where the United States Supreme Court ruled that she would not be eligible to the proceeds from her father's \$402,000 company plan. Kari's father neglected to change the beneficiary form from his ex-spouse to his daughter after a divorce. And, even though the ex-spouse waived her rights to the money in the divorce decree, the beneficiary form trumps any such decrees.

Then there's the example from the New York Post news article "Pension Pickle" where Bruce Friedman of Brooklyn, New York, was left penniless after his wife Anne died unexpectedly. She had worked as a former school principal, and upon her death left a lump-sum payment of almost a million dollars from the Teachers Retirement System. Mr. Friedman never doubted that he was the beneficiary, because the statements never indicated one and he assumed he would be the default beneficiary. Unfortunately, a beneficiary form was discovered that had been completed four years before the couple was married. Anne's mother, uncle and sister were listed as beneficiaries on the form. Both the uncle and mother were deceased. The Manhattan Supreme Court ruling upheld that the forms listing the beneficiaries were compliant with the law so the money was awarded to the sister-in-law. Spousal protection does not exist in plans that are not governed by ERISA (The Employee Retirement Income Security Act of 1974), generally governmental plans and non-qualified retirement plan assets.

Keeping those examples in mind, it's essential to review your beneficiary and contingent beneficiary designations on an annual basis and to also make changes after an important

change in your financial status and life events. Other key points to remember about choosing beneficiaries include:

- Beneficiaries of life insurance policies receive the benefits income tax free
- A trust or charity may be an appropriate beneficiary in some cases
- Trustees (often a legal entity rather than an individual) take charge of managing, investing, and disbursing the money
- Be sure to name contingent, or secondary beneficiaries as well
- The law requires that a spouse must be the primary beneficiary of a pension or retirement plan account governed by ERISA, unless waived in writing by the spouse. A non-spouse (think prenuptial agreement) cannot waive such rights.
- While ERISA provides detailed spousal rights and consent provisions that protect a spouse upon the participant's death, ERISA contains no similar provisions to protect a spouse upon divorce from the participant.
- Anyone can be named beneficiary of an Individual Retirement Account
- Children alone may not be the most appropriate beneficiaries. Many insurance policies and retirement plans will not pay benefits to minors without a court-approved guardian or trustee. In addition to naming the intended child, be sure to name a custodian for the funds until the child reaches the age of majority.
- Stretch provisions for beneficiaries of participants who pass away prior to reaching their Required Minimum Distribution (RMD) beginning date and those who pass away after are very different. Be sure to consult an IRA expert before taking that first distribution.

If you need assistance with managing your financial goals, Delta Community Retirement & Investment Services, located at Delta Community Credit Union, is here to help you make sure your money is working as hard as it can. And remember, if you ever have any questions about your retirement planning or investments give us a call at **404-677-4890** or **1-800-544-3328** or visit us at DeltaCommunityCU.com.

Slott, Ed. "Ed Slotts IRA Advisor." *Supreme Court Rules in Favor of Ex- Spouse*. Print. March 2009.

Haberman, Zac. "Pension Pickle – Broke Widower loses \$1M to In-law." Print. 31 Jan. 2005.

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