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About this article:

This column is intended to provide guidance for individuals as they navigate the path of personal wealth management.

Report by:

The Insight Group Inc., A Registered Investment Advisory Corporation

THE STATE OF ESTATE BENEFICIARIES

Designate wisely and clearly who will benefit upon your passing.

When the rich and famous die, we get the opportunity to examine the impact of proper or improper titling or naming of beneficiaries. For example, there is much speculation as to how pop star Michael Jackson's estate will be settled. The only certainty is that it will be a "thriller." By looking at past high-profile individuals or those with esoteric estate beneficiaries, we may be able to get a glimpse at what the possibilities might be — whether your objective is to keep your estate as private as possible or to make headlines with your beneficiary designations.

For example, Charles Millar, a Canadian attorney who passed away in 1928 as a bachelor, left his more than \$500,000 estate to the woman who bore the most children in Toronto in the 10 years following his death. His bequest prompted what was known as "The Baby Derby" as mothers competed to win the prize. The winners were four mothers who split the prize, each having nine babies in the 10-year period. Other interesting beneficiary designations include Leona Helmsley's two grandchildren who each stand to inherit \$10 million as long as they visit their father's grave once a year and sign a register to document their visit. Failure to make their annual visit will result in their inheritance being cut in half.

Leaving loved ones not-so-thrilled

On a more basic level, many people make unintended bequests simply because they fail to understand the need to properly name beneficiaries. For example, a mother listed her IRA beneficiaries as her six children with each child listed separately on the beneficiary form. The form did not designate that the IRA was to be distributed in "equal shares." The IRA custodian distributed the entire IRA to the first child listed as a beneficiary. Fortunately, the child paid the \$240,000 in taxes on the IRA and then was able to share the remainder of the assets with his siblings.

Other key phrases to watch for in beneficiary designations are "per capita" and "per stirpes." For example, if several children are named under a beneficiary designation to receive their benefit per capita, each will receive an equal share. But what happens if one of the named beneficiaries has died? What happens to his share? Under this same per capita designation, if the deceased beneficiary were married or had children, the surviving spouse and children would receive no benefit. However, if the children were named per stirpes, then the surviving children of the deceased beneficiary would receive the deceased beneficiary's portion of the estate.

Wills do not override beneficiary designations

Properly naming beneficiaries can be even more important than your will. For example, an individual named only a couple of his children on

a beneficiary designation form. When asked why he didn't name all of his children, his response was, "I have a will and that will take care of things." What this person failed to understand is that assets that provide for the designation of beneficiaries are not probated and so the will, which is probated, won't dictate the distribution of the assets. In this case, only the named children would receive a benefit even if the intention were for all the children to receive such.

Double-check your current beneficiaries on each account

Changes made by an IRA custodian can negate well-thought-out beneficiary designations. In 2007, a large and prominent IRA custodian sent out an innocuous letter stating that they were changing their beneficiary policy and that they would require all retirement accounts of the same type to have the same beneficiary. They would apply the most recent beneficiary designation to all accounts. The intention of the company was to simplify their record keeping and distribution process. This seemingly innocent change can have a dramatic effect.

Let's assume I had four different IRA accounts and named a spouse as beneficiary on one account, children as beneficiary on another, a charity listed as a beneficiary on the third, and grandchildren as beneficiaries on the fourth account. Depending on which beneficiary form the custodian deemed to be the most recent, all of the IRAs would go to only my spouse or only to my children or only to my grandchildren or only to the charity. Rather than having four distinct and separate beneficiaries, I would have only one beneficiary. Imagine the surprise to the spouse, children and grandchildren if the custodian deemed the charity to be the most recent beneficiary designation and gave all of the assets to the charity.

Check the custodian limitations

Limitations of the custodial institution can cause problems as well. Many times a trust may be named as a contingent beneficiary and the custodian will not accept a trust as a beneficiary. On other occasions, several children may be designated as beneficiaries with the intention of stretching distribution over the lives of the children, and the custodian is unwilling to accept the beneficiary designation.

Designations for minor children and pets

Naming minor children as beneficiaries can be problematic as well. Typically if a minor is named as a beneficiary, the child will have to have a court-ordered guardian or custodian with potential costly

administration and reporting of transactions to the court. It may be easier to name a trust or a custodian as beneficiary on behalf of minor children. On occasion, an individual passes away with only the companionship of a beloved pet. Wanting to provide for their pet, they name their pet as beneficiary. The courts will usually not recognize a pet as a beneficiary since a pet is not considered a "person." If you wish to make sure a pet is cared for, name a trust as beneficiary that will provide for the care of your pet.

Charities make good beneficiaries

Naming a charitable organization as beneficiary is also a good alternative. However, make sure that you consult with the charity you wish to name as a beneficiary. The correct legal name of the charity may differ from the name you see advertised. Using the correct legal name will avoid confusion at the time the assets are distributed. In addition, naming a charity may provide an opportunity to direct how the charity may use the funds. Whether you wish to ensure that a chair is endowed at a university, that your church has funds for a certain project, or that humanitarian needs are met, visit with the charitable organization to make these proper beneficiary designations for your assets.

Action items

- Review your beneficiary designations to make sure individuals are listed correctly.
- Review "equal shares," "per capita" and "per stirpes" language. Make sure that this language is included either through the beneficiary document or through your addition of this language after the named beneficiaries.
- Understand your beneficiary documents. Read the fine print. Make sure that a custodial agreement or contract does not change your intended distribution of assets
- Review provisions for minor children. Name trusts or guardians in your beneficiary designations for minor children.
- Review charitable bequests with the designated charities. Determine correct language to name the charity and have assets used by the charity as you intend.

May you rest in peace

Whether we are talking about IRAs, annuities, life insurance policies or wills, the proper naming of beneficiaries can make your estate distribution orderly and consistent with your wishes. Even if your favorite beneficiary is a family member, pet or charity, taking the time to review your beneficiary designations will allow you to truly rest in peace knowing that your heirs are being taken care of in the way in which you intended. ■

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The Insight Group is a team of financial planning professionals that enable affluent families across the Wasatch Front (and the backside, too) to navigate the impact of wealth-transforming events. Planning for these events, whether driven by retirement, a business sale, death, inheritance or market conditions, will maximize the positive impact of wealth for your family and community.

The Insight Group ... achieving financial wellness for yourself, your family and your community.

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