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Review your beneficiary designations!

Overlooking this step could upend an otherwise sound estate plan.

Next year, the first $15 million of estate and gift transfers will, in general, be free of federal transfer taxes. We've come a long way from the original exemption of $50,000 in 1916, when the federal estate tax was adopted. (That would be $1.6 million today after adjusting for inflation.) The freedom from federal death taxes for most estates does not lessen the need for having an estate plan, however. Estate planning has always prioritized family financial protection, and tax efficiency was just one aspect of such planning.

When you review your will to assess the impact of the new tax laws, be sure to take a close look at all your beneficiary designations. This includes retirement plans, life insurance policies, pay-on-death accounts, and perhaps, brokerage accounts. What has happened since you signed those forms? Have there been deaths, marriages, divorces, births, or other sorts of familial evolution? Do the designations still make sense?

Recent example

Financial journalist Laura Saunders recently wrote "Leaving the Wrong Beneficiary on Your IRA Plan Can Be a Costly Mistake" [*The Wall Street Journal,* November 6, 2025]. There are plenty of examples of people who sign beneficiary designations and then forget all about them, leading to controversies after death.

For example, a young man named his girlfriend the beneficiary of his 401(k) plan when they lived together, but the couple broke up because he didn't want children. She married someone else and had kids; he remained single for the rest of his life. When he died some 30 years later, the beneficiary had never been changed, despite repeated reminders in his account statements. After a court fight, his 401(k) money went to the woman he had not seen in three decades.

Ms. Saunders offers several tips regarding beneficiary designations.

"Don't name your estate as your heir." Doing so sacrifices tax deferrals for the account.

"Designate more than one layer of heirs." Naming a contingent beneficiary if the primary one dies provides a roadmap for dealing with that circumstance. If the primary beneficiary has plenty of assets, a disclaimer can permit the IRA money to pass to the secondary beneficiaries.

"Complete new forms when transferring an account." This is true when moving the money from one IRA custodian to another and also when one rolls over 401(k) money to an IRA to preserve the tax deferral. Beneficiary forms typically do not follow the money.

Continued on next page

"Understand the 401(k) waiver for spouses." In general, a spouse must be the surviving beneficiary of an employer's qualified retirement plan, such as a 401(k) plan. The spouse may waive that right, but the paperwork must be completed for the waiver to be effective. The rule does not apply to IRAs.

"Beware of the effect of divorce." State laws vary on the effect of a divorce on spousal beneficiary designations. Preparing new beneficiary designations should be a routine element of divorce settlements.

Fixing a beneficiary designation is easy during one's life but very difficult after death. It's not something the estate's executor can undo with ease.

When the spouse should *not* be the designated beneficiary of an IRA

In the majority of cases, the surviving spouse will inherit an IRA, and he or she will have some very useful tax choices to make. However, in some circumstances, an alternative beneficiary should be considered.

Spouse has sufficient assets without the IRA. In that case, the IRA might be divided among younger family members with greater financial need.

Financial vulnerability. There is an abundance of scam artists who seek wealthy widows to prey upon. If the surviving spouse is not financially sophisticated, a trust plan for the IRA may be helpful.

Remarriage concerns. Once a surviving spouse inherits an IRA, he or she is free to consume it, or to designate a new surviving beneficiary—such as a new spouse. Again, a trust plan may address this concern.

Blended families. The IRA could be the source for an inheritance for children from the first marriage.

Special needs spouses. A trust plan for the IRA may protect the surviving spouse's access to government benefits while managing the inheritance.

Commenters

The extensive comments to the Saunders article suggest that many people have run into this problem, especially with the estates of their parents. A sample:

"My mother was happily remarried when her husband passed away. His retirement account was still in the name of his ex-wife, whom he loathed. She loathed him as well. In the end, however, because this was in Florida, she received all of the money. The ex-wife knew it was an error but took the money anyhow."

"Something to keep an eye on. Institutions (banks, brokerages, money managers, your employer and their 401(k) manager) frequently go through mergers or acquisitions. This is a time when information like this can be lost. New institutions frequently don't have or can't find old forms."

"My husband purchased his insurance policy when he was young and single. Over the years, we increased the coverage amount but never looked at the original documents. When my husband died and I called the insurance company, the customer service person told me that I (spouse) was not the beneficiary—needless to say, I was shocked. I pulled the paperwork out of the safe and saw that my husband had named his brother as the primary beneficiary and a second brother as successor beneficiary decades ago before we were married and never thought to update the paperwork after that or after having children. [The insurance representative] says this happens all the time."

"An excellent strategy for those wishing to leave assets to charity is to designate the charitable organization as a beneficiary of an IRA. This avoids taxes altogether, and it is much simpler to change a beneficiary on an IRA account than to amend a will or trust. The charity can be designated as the secondary beneficiary, for example, with a spouse as primary. An IRA can also be divided among several organizations simply by designating the percentage to go to each."

Put our expertise to work for you

We specialize in trusteeship and estate settlement. We are advocates for trust-based wealth management strategies. If you would like a "second opinion" about your estate planning, or have questions about how trusts work and whether a trust might be right for you, turn to us.

How the beneficiary designation works

When Michael Jones purchased Series EE federal savings bonds, he designated his wife, Jeanine, as the pay-on-death beneficiary. The couple later divorced. Under the divorce settlement agreement, Michael agreed to pay Jeanine $200,000 over a period of years. The settlement agreement did not mention the savings bonds, nor did Michael take any action to have the pay-on-death beneficiary changed.

Michael died before completing all the payments required by the divorce agreement. Jeanine redeemed the savings bonds, then filed a creditor's claim against his estate for the $100,000 remaining to be paid to her. The estate argued that the redeemed savings bonds should be counted toward satisfying the debt, and the trial court agreed, dismissing Jeanine's claim.

Jeanine appealed, and the appellate court reversed the verdict/decision. Under the federal regulations governing savings bonds, Jeanine became the sole owner of the bonds at the moment of Michael's death. Because it became her property, it does not satisfy the debt the estate owes to her. The New Jersey Supreme Court recently affirmed that outcome. Jeanine's property interest in the bonds was not revoked by the divorce agreement, because that agreement did not mention the bonds. "The trial court's holding, which impaired Jeanine's right of survivorship as beneficiary of the bonds based on nothing more than its assumption that Michael likely intended to do so, is exactly the type of judicial determination the federal regulations do not allow," the Court concluded.

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Uncontested trusts

One essential advantage of establishing and funding a revocable living trust is to avoid the expense and publicity of probate, eliminating the need for court supervision of the implementation of the estate plan. The "nonprobate revolution" in estate settlement began in the 1960s and quickly became standard practice for many estate planners. Probate Court participation would then only be required if there is litigation, for example, over the trust terms or the settlor's capacity to establish a trust. As it happens, courts have been called upon to backstop and interpret some trusts, even when there is no controversy among beneficiaries.

Law professors Christopher J. Ryan Jr., David Horton, and Reid Kress Weisbord studied the cases in San Francisco Superior Court over the seven-year period ending December 31, 2020. Through a filtering process, they found that there had been 1,431 unique trust cases in that time frame. Of these, 971 cases did *not* involve litigation ["Uncontested Trusts in Court," Maurer School of Law Legal Studies Research Paper Series (2025)].

The most common trust issue before the Court (417 instances) was the failure to finish the job of funding a living trust by the person creating the trust. They needed to convey the title on their financial accounts from themselves as individuals to themselves as trustees; without that step, the trust remains empty. The Court was petitioned to provide relief based upon the totality of the trust paperwork (including a completed schedule of proposed trust assets), and relief was granted in 72% of the cases.

Successor trustees

Another surprisingly common problem occurred in securing a successor trustee for a trust. A well-crafted trust should anticipate this situation.

Example 1. A husband executed a testamentary trust in 1984. At that time, Wife was 47 years old, and they had young children. His named Wife as trustee, and Son as successor trustee, with no process for further succession. When Son died in 2018, Wife realized that there was no other trustee to succeed her, so she turned to the Court to expand the list of potential successors.

Example 2. A trust created in 1982 required that a successor trustee be "one of the six largest California banks." Unfortunately, when the issue of succession came up 36 years later, the trust held only $298,000. The six largest California banks at that time had $500,000 minimums for trust administration. The Court was petitioned to find an alternative for this trust.

Relief was granted in 92% of the cases involving successor trustees, but better trust drafting could have made the expense of going to Court unnecessary.

Modification or termination

Among the 971 uncontested trust cases were 188 requests for modification or termination of a trust. To terminate a trust, the consent of all beneficiaries is traditionally required. Even then, the trust will not be ended if that would conflict with a "material purpose" of the trust's settlor. Under California law, the material purpose must be balanced against the reasons advanced by the beneficiaries, such as changed circumstances.

One such changed circumstance might be the federal estate tax law. For decades, the standard estate plan for a married couple was a two-trust plan; one trust to absorb the benefit of the federal unified credit for estate and gift taxes, and one trust deferring such tax through the marital deduction. A series of reforms since 2010 has made that structure suboptimal for most estates. First, the amount exempt from federal estate tax was lifted dramatically ($15 million per taxpayer in 2026), excusing the vast majority of estates from taxation, and second, the unified credit was made portable between married couples through the simple expedient of filing an estate tax return and making an election.

Although these changes were welcomed by estate planners, some families were slow to amend their estate plans in view of the new circumstances. The study found 42 requests to not create the two trusts called for in an estate plan on the grounds that the approach had become "obsolete and, overall, tax inefficient." The inefficiency comes from a loss of a basis step-up when the surviving spouse receives less than all the property in a form includible in his or her estate.

Generalizations

The authors acknowledge limitations of their study, in that San Francisco may not be typical of the rest of the country, given the unusual wealth levels of its residents and their propensity to create trusts for wealth management. They also don't know how many active trusts there are in the San Francisco jurisdiction, which would provide a context to determine if 142 uncontested trust cases each year is a lot or a little.

If your estate plan involves the use of trusts, your next plan review should include attention to issues, such as successor trusteeship, that can be handled by the trustee without Court supervision.

New considerations for charitable giving

The One Big Beautiful Bill Act, enacted last summer, made several important tweaks to the tax rules for charitable deductions to keep in mind as we come to the end of the year.

Those who use the standard deduction are now entitled to an "above the line" deduction for up to $1,000 of cash gifts to charity ($2,000 for couples filing jointly). Some 90% or so of taxpayers have been using the standard deduction in recent years and therefore have had no federal tax benefit from their charitable giving. That has now changed. Whether the new tax treatment will have a material effect on charitable giving remains to be seen. Also, the increase in the cap on the deduction for state and local taxes, going from $10,000 to $40,000, might cause more taxpayers to benefit from itemizing again.

Those who itemize now have three new considerations to take into account. First, there is a floor of 0.5% of adjusted gross income (AGI) on their deduction for gifts to charity beginning next year. Example: If the adjusted gross income is $100,000, the floor is $500. Charitable gifts generate an itemized deduction only to the extent that they exceed that $500 floor. A $2,000 gift creates a $1,500 deduction; a $5,000 gift creates a $4,500 deduction.

Second, starting next year, the value of itemized deductions will be capped at 35%. This affects only those in the highest tax bracket.

Finally, for major philanthropic moves, the deduction cap of 60% of AGI has been made permanent. Gifts in excess of the cap may be carried forward to future tax years.

Accelerating charitable giving into 2025, before the new restrictions on the tax benefit of charitable giving take effect, may be indicated for philanthropically minded taxpayers. Strategic bunching of charitable giving in the longer term should be considered, toggling between itemizing one year and the standard deduction the next. This could maximize the tax benefit from gifts to charity. On the other hand, charities generally prefer to get gifts sooner rather than later. The tax benefit is usually an important but secondary consideration when planning charitable gifts. Don't let the tail of tax effects wag the dog of the charitable impulse.

One critical area that remains unchanged by the recent tax legislation is the Qualified Charitable Distribution (QCD) from an IRA. Up to $108,000 may be directed from an IRA to a qualified charity by a taxpayer who is older than 70½ in the 2025 tax year (next year, the limit goes to $115,000). The QCD satisfies the Required Minimum Distribution for the IRA, but it will not be added to AGI (so no deduction is needed), and therefore, the QCD will not affect taxation of Social Security benefits or future Medicare premiums. A married couple may each have a QCD, but only if they have separate IRAs from which to distribute.

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