Seven easy things to consider when estate planning

By Julie Back

By now, it's likely that many of us have let our New Year's resolutions slip down our priority list. If one of your resolutions was to get your financial life in order, then you still have time to act before the year is over. These recommendations may not be as exciting as losing those stubborn 10 pounds, but they will make a significant impact on your peace of mind and your desired estate planning outcomes.

We're talking about making sure your beneficiary designations are up to date and your account titles are correct.

Beneficiary Designations

Establishing beneficiary designations on Individual Retirement Accounts, company retirement plans, life insurance plans and annuities for many people can become a "set it and forget it" strategy. Once they've done it, they don't feel that they need to look at it again. However, many of our estate planning attorney partners tell us that they often see situations where someone has died, and their beneficiary designations didn't reflect their wishes or family situation. Life can bring many changes after an original designation is made. People may have married or divorced, a spouse may have died, children could become estranged or the owner of an account may now feel more charitably inclined than in the past. All of these are reasons to review the beneficiary designations on all your accounts that require this information.

Additionally, as one's wealth grows, some estate tax planning strategies that use appropriate beneficiary designations may optimize the wealth passed to future generations or charities.

Most people only consider their primary beneficiary designation. But it's also important to consider contingent beneficiaries and other designations like "per stirpes." Let's take these one at a time.

- **Contingent Beneficiary.** A contingent beneficiary receives the asset only if there are no living primary beneficiaries. Most people will use contingent beneficiaries to ensure their children will receive the asset if their spouse dies before them. For instance, a beneficiary designation for Susan Smith might look like this: "Joe Smith, spouse as 100 percent primary beneficiary and David, John and Amy (their children) as contingent beneficiaries to share equally."
- **Per Stirpes.** One can further define beneficiary designations by using a per stirpes clause. Let's assume that Susan is now a widow and her children are now her beneficiaries. Using a per stirpes designation allows for the descendants of her children to inherit if any of Susan's children die before her. Let's assume that David has two children, John has one child and Amy does not have children. Susan has named her children to share equally when she dies. If David dies before Susan, his one-third share would be divided equally between his two children. And if John dies before Susan, his child would receive his full one-third share.

- **Per Capita**. Another way of dividing assets among generations is per capita. With the same family facts as above, let's assume that John and David have pre-deceased Susan. When Susan passes, Amy (Susan's surviving child) will receive one-third share, David's two children and John's child will share equally in the remaining two-thirds of the estate.

Because these designations are complex, it is important to consult an estate planning attorney so that they are written clearly to avoid confusion and possible court involvement when the account owner dies.

Account Titles

If you were confused by the previous information about beneficiary designations, then account titles may make your eyes roll back in your head. This discussion is for those non-retirement assets like individual brokerage accounts and real estate. In Washington state, which is a community property state, property is held (and titled) in four primary ways.

1. **Joint Tenancy** allows for the right of survivorship. If one of the joint tenants dies, his or her interest in the asset passes to the surviving owner without having to go through the legal probate process. This is most often used for married couples.
2. **Tenancy in Common** is generally used for non-married couples. Each owner has rights to the asset during his or her life. Each owner can designate who is to receive his or her share at death. It does not have to be the surviving owner.
3. **Community Property** specifies that both spouses have an equal right to the property during the marriage. When the first owner dies, the survivor automatically receives half of the asset and the other half passes to lawful heirs, which may or may not include the surviving spouse.
4. **Transfer on Death** allows the sole owner of a brokerage account or real estate to register that asset as Transfer on Death and to name beneficiaries. This avoids the sometimes lengthy and expensive probate process.

So, while your other New Year's resolutions may be gathering dust on your "to do" list, making sure your beneficiary designations and account titles are up to date can be achieved. Make an appointment with your financial planner and estate planning attorney and you can check this off the list and have peace of mind that your estate wishes will be fulfilled.

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