

Beneficiaries—Some Nuts and Bolts

By Gary Case

Tangible Personal Property

Make a list of the property you wish to transfer and to whom. A hand-written list usually works best, since everyone (including the courts) can see that you actually created the list. While some tangible personal property has significant monetary value, the most common points of contention among heirs arise from the emotional and sentimental value they associate with cherished personal articles. One of the most loving things a benefactor can do is to write the list in the form of a letter, acknowledging the sentimental value of the property to the recipient. In order to write the letter, it may be necessary to actually have a discussion with your heirs, either in a group format or individually. Not having such a conversation will not extend your life expectancy.

Titled Property

Houses, cars, stocks and bonds, bank accounts, brokerage accounts, mutual funds, camp trailers, business interests, etc., all have titles and have legally registered owners. One very flexible way to create beneficiaries to such titled assets is to create a trust and have your trust own the assets. Many folks leave out the next step, which is funding the trust. Trust beneficiaries can be as complex or as simple as a particular situation requires. While wills can designate beneficiaries, a probate is necessary to change the title of a property.

Absent a trust, property can be titled as “pay-on-death”, or “transfer-on-death.” Each registration directs the asset to be transferred to the payee, or beneficiary, at the death of the owner. This registration is generally preferable to adding a beneficiary’s name to the title.

Insurance

Any insurance product that has cash value at death should have a named beneficiary. Charitable organizations, endowments, and individuals are some examples of possible beneficiary designations. When a life insurance company is unsure of whom the beneficiaries are it will generally file a lawsuit with a court to determine the rightful beneficiary. Unusual beneficiary designations should be approved and agreed to when the designation is made by in issuing insurance company whenever possible.

Qualified Retirement Plans

IRAs, 401(k)’s, SIMPLE plan, Simplified Employee Pensions (SEPs), and 403(b)’s are common qualified plans. Several factors work to complicate beneficiary designation for such plans: governmental oversight by multiple agencies; the monetary value of the plan; and non-uniform requirements for custodians or trustees of these plans. At a minimum, it is important to know how the IRS and the plan custodian understands your beneficiaries’ designations. With larger account values, it may be appropriate to seek a private letter ruling from the IRS if you have a complex beneficiary designation. In addition to the dynamics between beneficiaries of a qualified plan, income tax planning is critical to

successfully transfer assets to your beneficiaries rather than the IRS and state tax commission.

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