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The Weekly Scenario: How to Avoid Unintentionally Disinheriting a Family Member

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When an account owner dies, the assets go directly to the beneficiaries named on the account. This overrides the will or trust. Therefore, you should use care in coordinating your overall estate plan. You don't want the wrong person ending up with the financial benefits.

Too many stories to count where the individual remarried after the death of his spouse but didn't change his IRA beneficiary form. At his death, someone else (i.e., second wife, etc.) was left out. So the intended beneficiary receives nothing from the IRA, and the retirement money went to his first wife, the named beneficiary.

Many types of accounts have beneficiary forms, like U.S. savings bonds, bank accounts, certificates of deposit that can be made payable on death, investment accounts that are set up as transfer on death, life insurance, annuities and retirement accounts.

Generally, beneficiary designations don't carry over, when you roll your 401(k) to a new plan or IRA.

You can name as your beneficiaries individuals, trusts, charities, donor-advised funds, or your estate. You can name groups, like "all my living grandchildren who survive me." However, be certain that the beneficiary form lets you pass assets "per stirpes," meaning, equally among the branches of your family. For example, say you're leaving your life insurance to your four children. One predeceases you. Without the "per stirpes" clause, the remaining three children would divide the death proceeds. With the "per stirpes" clause, the deceased child's share would pass to the late child's children (your grandchildren).

If you can help it, it is not recommended to leave assets to minors outright, because it creates the process of having a court-appointed guardian care for the assets, until the age of 18 in most states. Instead, you might create trusts for the minor heirs, have the trust as the beneficiary of the assets, and then have the trust pay the money to heirs over time, after they have reached legal age.

You should also not name disabled individuals as beneficiaries, because it can cause them to lose their government benefits. A special needs or supplemental care trust is often a good solution. This preserves their ability to continue to receive the government benefits.

As always, if you have any questions or would like to learn more, please contact Steve Shane at sshane@offitkurman.com or 301.575.0313.