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Make This Estate Planning Move Now

Failure to take this action can have dire consequences.

By [BILL BISCHOFF](#)

With the current \$5 million federal estate tax exemption, you may not be thinking much about estate planning. After all, there's no way your estate would owe the tax if you happen to die between now and 2013. So no worries, right? Wrong.

In fact, there's an important estate planning move you should probably make as soon as you finish reading this: check the beneficiary designations for your bank accounts, brokerage firm accounts, tax-favored retirement accounts, company benefit plans, life insurance policies, annuities and 529 college accounts. If you haven't yet turned in the forms to designate beneficiaries, do it now. If your forms are out of date, change them. It's amazing how often folks fail to take these simple steps, and the consequences of slacking off can be dire. Need a couple horror stories for motivation? Here you go.

Horror Stories

How would you feel if you died and your ex, who you intended to get nothing more after your recent divorce, was allowed to vacuum up your company pension benefits and the proceeds from your company-provided life insurance coverage? Probably not very good -- especially if you had wanted your son and daughter from an earlier marriage to receive the money. Unfortunately, Dad failed to change the beneficiary designations for his pension benefits and life insurance after the divorce, so his ex-spouse remained the named beneficiary. The U.S. Supreme Court ruled that

the beneficiary designations trumped state law that would have automatically disinherited the ex. So she got the money, and the kids got the bills for an unsuccessful legal fight that went all the way to the Supreme Court.

In another case, an ex-spouse collected \$400,000 from her former husband's company savings and investment plan when he died -- even though the ex had specifically waived any interest in the plan under the divorce agreement signed seven years earlier. Believing the divorce agreement was the last word on the subject, the man failed to turn in the form to officially change the plan beneficiary from his ex to his daughter. The plan document stipulated that beneficiaries could only be changed by submitting the form. The U.S. Supreme Court ruled that the hideously outdated beneficiary designation trumped the divorce agreement. So the ex got the \$400,000 and the daughter got stiffed.

Divorce is not the only situation where failing to turn in or update your beneficiary designation forms can cause big problems for your intended heirs; it's just the most obvious situation. For example, you have the same basic issue if you become disenchanted with one of your adult children because he's decided to be a professional Frisbee golfer. Or you might want to leave more of your life insurance benefits to an adult child who just had triplets and a bit less to your childless offspring. You get the idea. When things change, your beneficiary designations may need to change, too.

Most importantly, do not depend on your will to override outdated beneficiary designations. As a general rule, whoever is named on the most recent beneficiary form (which may not be nearly recent enough) will get the money automatically if you die -- regardless of what your will might say.

If You Are Married

If you are married and have accounts set up with you and your spouse as joint owners with right of survivorship, the surviving spouse will automatically take over sole ownership when the first spouse dies. If that is what you intend, great. Still, you may want to name some secondary beneficiaries to cover the possibility that your spouse dies before you do.

Note that in the nine community property states (Arizona, California, Idaho, Louisiana, Nevada,

New Mexico, Texas, Washington, and Wisconsin), you will usually need your spouse's consent to make beneficiary changes because assets accumulated during your marriage are generally considered to be owned 50/50.

What to Do

- * Bank and brokerage firm accounts: Fill out and submit a transfer on death (TOD) or payable on death (POD) form to name or change your beneficiary or beneficiaries.
- * Tax-favored retirement accounts, employer-sponsored benefit plans, life insurance policies, and annuities. Fill out and submit beneficiary designation forms to name or change beneficiaries.
- * 529 college accounts: Fill out and submit a beneficiary change form to change the account beneficiary.

Beyond making sure your money goes where you want, another advantage of designating individual beneficiaries is it avoids probate. The goodies go directly to the named beneficiaries. In contrast, if you name your estate as your beneficiary and depend on your will to direct the money to your loved ones, the estate must go through the potentially time-consuming and expensive process of court-supervised probate before the money is allowed to arrive at the intended destinations.

In many cases, keeping your beneficiary designations up to date can obviate the need for a will. The key words are "up to date." I recommend checking your designations at least once a year or whenever significant life events occur. It usually only takes a few minutes to conduct a checkup and make any needed changes. In many cases, you can get the forms online.

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