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Think carefully about retirement account beneficiaries

Many people think that if they have a Will that their estate planning is complete. After all, they have formally declared how they wish their assets to be distributed after they pass away with a document that is notarized and witnessed. Others feel that they do not need a Will since they have named beneficiaries on their assets. In fact, as a recent article in *ElderLaw Answers* indicates, the truth is somewhere in between (www.elderlawanswers.com).

Property, which can include real estate, bank accounts, investment accounts, and retirement funds, can pass to heirs through formal or informal means. A Will is a formal way to pass assets onto the heirs that you designate. This method is the preferred way to make sure that your money and property passes to the person or persons that you name, in the correct way and at the correct time. For instance, someone with special needs should not inherit directly as that person could lose their public benefits and medical insurance. Other heirs may not be able to manage finances well which may require intervention. A minor child cannot inherit any sum of money; a trust would be required. A guardian must be named for minor children. Assets that do not have beneficiaries listed are controlled by a Will.

However, there can be significant amounts of assets that are not governed by the terms of a Will. There are TOD or POD accounts (transfer on death), jointly held accounts, life insurance, and traditional retirement accounts, such as IRAs, SEPs or 401ks that should name beneficiaries. Retirement accounts benefit from deferred taxation, so that any money deposited and interest earned on that money is not taxed until it is withdrawn. The terms of a Will can be thwarted by the failure to coordinate beneficiary accounts, TOD accounts, and/or joint accounts with the distribution scheme listed in the Will.

Retirement accounts require particular care when naming beneficiaries. *ElderLaw Answers* indicates some particular areas of concern for these accounts. The choice of beneficiary can have significant tax ramifications. Owners can withdraw funds more or less on their life expectancy. Failure to name a beneficiary or beneficiaries can force the cash in over five years, with the resultant income tax implications, rather than over a longer period of time. It is important to look at your beneficiary designations periodically to see if they are still appropriate and no one has passed away before you. This is particularly important after a divorce, to be sure that the ex-spouse is not listed.

In most cases, the spouse is named first. However, there might be reasons not to do so, such as an incapacitated spouse, a spouse who is receiving public benefits, or a second marriage where the funds are intended for the children of the first marriage. Be careful with charities as beneficiaries as listing a charity as a partial beneficiary will force the closure of the account and accelerated taxation. Also remember that special needs beneficiaries may not be able to shelter funds in a retirement account in a special needs trust.

Keep copies of your beneficiary designation forms, especially if the plan was with a former employer or with a financial institution that changed hands. It is a good idea to give your estate planning attorney a copy for your file. Your estate planning attorney will be able to guide you through the coordination of your estate plan.