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On the Importance of Beneficiary Designations

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The Wall Street Journal recently reported on a lawsuit currently working its way through the courts involving an old, and apparently out of date, retirement plan beneficiary designation. The story serves as a reminder of how important reviewing and maintaining beneficiary designations can be.

In the case reported in the Journal, the dearly departed had named his girlfriend as the beneficiary of his 401(k) in 1987. He was young, the account didn't have much money, and they were in love. The only constant in life, however, is change. The relationship ended but the 401(k) continued to grow to be worth more than \$750,000. In the years that followed, he never married and didn't have any children. More importantly, he never took the time to revisit his beneficiary designation.

When our hero died in 2015 at age 59, his family (two living brothers), were shocked to discover that the designated beneficiary for this 401(k) was the old girlfriend. They were sure he hadn't intended to leave funds to her. How they were certain of this is unclear, but the supposition seems reasonable. Unfortunately, the 401(k) trustee doesn't get to distribute plan assets based upon reasonable guesses or what might seem fair. Instead, the last standing beneficiary designation controls the disposition of assets.

In court, the brothers argued that the company was responsible by virtue of failing in its fiduciary duty to inform or remind their employee to update the beneficiary designation. A federal court disagreed, and the case is currently on appeal. It has now been nine years since the account owner's death, and the assets still haven't been distributed. Who gets what and when they get it are the essence of the estate plan. We don't know anyone who would sign up for nine years of distribution delays, heavy legal bills and the possibility of money going to the "wrong" person.

As we read the story, we were reminded of a similar situation in our practice. A recent widow came to us for planning assistance. She discovered that an old IRA had her late husband's mother listed as a beneficiary. The designation had never been changed after their marriage. In this case, the mother in law agreed to transfer the funds to her daughter in law. While this was resolved without litigation, the delays in administration and tax costs were still a huge burden.

Beneficiary designations on retirement plans, insurance policies and bank and brokerage accounts control the distribution of those assets at death. Updating wills and trusts is a vital part of maintaining an estate plan, but if assets titles and beneficiary designations aren't reviewed and

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conformed to the estate plan, the job isn't complete. As a best practice, gathering and maintaining in a single file all your beneficiary designations is well advised.

Please let us know your thoughts and questions on this very important topic.