

# Naming Account Beneficiaries

*Don't Overlook this Important Planning Opportunity*

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Michele Walthert, CFP®, CRPC®  
Managing Director

Crystal Cox, CFP®, CRPC®  
Vice President

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## Don't Overlook this Important Planning Opportunity

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Before she passed away, Jade was diligent in making sure her will was in order, which left her entire estate to be equally divided between her two sons, Samuel and Benjamin. However, instead of naming them joint beneficiaries on her brokerage and bank accounts, she named Samuel as sole beneficiary on her large brokerage account and Benjamin as sole beneficiary on her modest savings account. When Jade passed away, nearly all her assets passed to Samuel and Benjamin outside of her will according to her beneficiary designations. However, Samuel received much more than his brother because he was named beneficiary on her largest account.

Situations like this are common. Naming and periodically reviewing beneficiary designations is one of the most important elements of estate planning. Yet, it is often overlooked or forgotten.

Since beneficiary designations are binding and supersede all other estate planning documents (even a will or a trust), paying special attention to these designations over time can make a substantial difference to loved ones. It is particularly vital to ensure that a carefully crafted estate plan will be effectively carried out as intended. In Jade's case, her intent was to divide assets equally between her two sons. However, the way in which she designated beneficiaries resulted in one son receiving significantly more than the other.

### CHOOSING BENEFICIARIES

Like Jade, most people name their spouse or children as beneficiaries. Other common choices include trusts and charitable organizations<sup>1</sup>. Any individual, trust, or charitable organization (or combination thereof) can be named beneficiaries so long as the combined assigned allocations add up to 100%.

As a rule of thumb, it is wise to also name a contingent beneficiary in the event the primary beneficiary predeceases, or passes away at the same time as, the account owner. Similarly, it is not advisable to name someone in an older generation as a beneficiary.

Individuals looking to name minor children as beneficiaries, whether primary or contingent, should consult with an estate planning attorney. One option is to set up a trust and name that trust as the beneficiary (rather than naming minor children outright). If the decision is made that a minor will inherit assets outright, there are additional considerations to keep in mind. First, a guardian will need to be appointed to oversee those assets until the child reaches the age of majority (typically 18 or 21, depending on the state of residence). Second, while a person's will often names a guardian for any minor children, the guardian will still need to be officially appointed by a judge. If no guardian is named in the will, the judge will appoint anyone he or she deems most appropriate. Finally, if a beneficiary has special needs (a disability, for example), inheriting assets directly could affect eligibility for government-provided benefits.

### THE BENEFITS OF NAMING AND REVIEWING BENEFICIARIES ON A REGULAR BASIS

Naming a beneficiary, or beneficiaries, assures that heirs will receive assets quickly and as intended by a decedent. If beneficiary designations are absent, the assets must first go through probate, the court procedure by which a will is validated and a person's estate is administered.<sup>2</sup> Even though the probate process is designed to distribute estates fairly, it can be lengthy and involves legal fees.

Depending on the content and size of the estate, it can take months or even years to finalize the proceedings. In addition, probate is a public matter, and as such, assets can become subject to claims of the decedent's creditors. When a beneficiary designation is made on a retirement or non-retirement account, assets avoid going through probate and can instead pass directly to the named individuals or entities at the time of the account owner's passing.<sup>3</sup>

For retirement accounts (such as a 401k or IRA), beneficiary designations are typically assigned at the time of account opening. Beneficiaries can also be assigned on non-retirement accounts, but it is usually accomplished after an account is established by completing a separate form. For these accounts, the designation of a beneficiary is referred to as a "Transfer on death" (or TOD) feature, and for bank accounts the term is "payable on death" (or POD). No matter the account type, there are no costs involved with naming beneficiaries.

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beneficiary designations on a regular basis, especially because they are usually not reflected on portfolio or account statements. For example, an audit should be initiated when a will or trust is established or updated and when life changing events occur such as marriage, the birth of a child, divorce, or the death of a named beneficiary. A change in retirement plan provider should also be a trigger to act since beneficiary information will generally not carry from one provider to another.

In the scenario above, Jade may have assumed that assigning each son to an account would work out to a 50/50 split over time. A periodic audit of her overall beneficiary plan would have been a more effective approach, however, since this would have shown her the discrepancy between her intended goals and the reality of the designations.

## **THE CONSEQUENCES OF OUTDATED OR MISSING BENEFICIARY INFORMATION**

Outdated or missing beneficiary designations can easily cause an estate plan to go awry and result in assets going to unintended recipients. For instance, if a former spouse was named a beneficiary on an account years ago, that designation would override the wishes in a current will, depriving current spouses or children of funds that could have been passed on to them. Similarly, not adding children at the time of their birth—or in Jade's case, not adding all children to the accounts as equal beneficiaries—can exclude them from estate distributions.

In the event that no beneficiaries are named, assets will be subject to probate and will be consolidated and distributed to the decedent's estate at the time of death rather than passing directly to beneficiaries.



The estate's assets will first be used to pay off any debts associated with the estate. Only after probate proceedings are completed will leftover estate assets be distributed to beneficiaries of the estate.<sup>5</sup> This probate process will significantly delay the transfer of assets to beneficiaries (including their access to funds needed to pay the estate's debts, taxes, and final expenses), and ultimately reduce the final size of the estate.

In the event an account owner passes away without a beneficiary designation and without a will (a situation referred to as "intestate"), the heirs of the estate will be determined by the court according to state intestacy laws. These intricate rules, regulations and procedures vary by state. Regardless, any situation that requires court involvement will delay the transfer of assets to beneficiaries.

## CONCLUSION

Keeping beneficiary designations current is an important part of long-term financial and estate planning. A sound plan ensures assets will be left to the intended beneficiaries and prevents outdated or missing information from overriding estate planning goals. It is also a simple way to help beneficiaries avoid legal headaches and enables assets to be directly and quickly distributed according to the decedent's wishes.

### Footnotes

1 For qualified plans, such as employer sponsored retirement plans, laws require the account holder to list a spouse as primary beneficiary, unless the spouse agrees to waive their claim in writing. Unmarried account holders can choose any individual, trust entity, and/or charitable organization as their beneficiaries. Source: <http://www.nytimes.com/2012/09/12/business/retirementspecial/spouses-consent-is-required-to-change-retirement-account-beneficiary.html>

2 "Probate estate" is not synonymous with "taxable estate." For purposes of determining the tax due on an estate (if any), some non-probate assets will still be included in the taxable estate calculation.

3 The process by which beneficiaries claim inherited assets differ by custodian or institution as well as whether those assets were held in a retirement account or non-retirement account.

4 Source: <https://www.personalcapital.com/rights>

5 The rules and tax implications surrounding estate distributions are complicated and differ based on various factors including whether the assets come from retirement or non-retirement accounts.

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