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Don't let the wrong person get your funds

Americans are constantly being bombarded by admonitions to save for retirement. Most people meet that directive by saving through IRAs, 401ks, and other such retirement plans. Many people also plan to provide for a surviving spouse and young children by buying life insurance. However, often these products are not viewed as part of an overall estate plan.

We know that we should periodically update our Wills or other estate planning, especially if there is a change in our lives for some reason. Everyone should have a Will, so that the wrong thing does not go to the wrong person at the wrong time. Power of Attorney documents are necessary to be sure that the right person is making financial and healthcare decisions for you. But most people forget to periodically update the beneficiary designation on retirement plans and life insurance. Elder Law Answers published a recent article on tips for naming a retirement plan beneficiary. (The article can be found at www.elderlawanswers.com).

The author suggests reviewing your retirement plans annually. The following are tips offered for this process:

- **It is important to name beneficiaries.** Retirement plans are not distributed according to your Will, as they are non-probate assets, meaning that they pass directly to beneficiaries "outside" your Will. If no beneficiary is named, the distribution of the funds at your death may be controlled by state or federal law, according the dictates of your particular plan. Other times the plan distributes the money to the person's estate, which can have significant tax consequences to the heirs. Naming one or more beneficiaries, as well as contingent beneficiaries, is the only way to control the distribution of these funds.

- **A trust can be designated as beneficiary.** You may want your money to go into a trust for children; the trust must be designated the beneficiary. You may have an heir with special needs; the special needs trust must be designated as beneficiary. If your estate is greater than the current federal estate tax exclusion ($2 million in 2007 and 2008), and a large portion consists of retirement plans, the surviving spouse's share can be payable to a trust. Be sure you consult an experienced estate planning attorney to avoid negative tax consequences.

- **Major life changes result in need to update plans.** Getting married or having children is a reason to update your beneficiary designation. A divorce does not automatically remove the ex-spouse as a beneficiary. Failure to act could result in your ex-spouse receiving your entire retirement plan, which may not have been your intention.

- **Periodic review of beneficiary designations is still important.** Even if you do not have any major changes in your life, it is still important to review your retirement plan beneficiary designations periodically. The beneficiary may be someone who was logical to choose at the time, but is now not the best choice. A charity who is named may no longer be a charitable organization. Life insurance should be reviewed also, particularly when a spouse passes away, and is still named as the beneficiary.

Estate plans, i.e. Wills or trusts, should coordinate with the beneficiary designations on your retirement plans. Take a few minutes to consider this important choice. A change of beneficiary form can often be downloaded from the Web site holding the plan assets.