Designated Survivor: Beneficiary Designations Can Make – or Break – Your Estate Plan

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Accurate beneficiary designations are one of the most important aspects of a proper estate plan. If prepared incorrectly, these designations can divert assets from your intended recipients, result in additional court procedures, and turn an otherwise coordinated plan into an administrative hassle. Beneficiary designations override the terms of your Will or Trust with respect to that asset. For example, if a friend is designated as the beneficiary on your life insurance because the form was completed before you had kids, that policy will be paid to the friend upon death even if all of your other estate plan documents direct your assets to your children. Or, alternatively, if no beneficiary is listed we may end up having to open a court process to administer the assets. To avoid these types of unintended consequences, it is extremely important to be mindful and purposeful in using and reviewing those designations with your advisors. The following are a few items to consider:

The Kids Are Alright (Or Are They?)
Many people name their children as beneficiaries on their accounts and other assets without understanding the implications of this choice. Designating a minor or disabled beneficiary can cause a number of unintended consequences. If a minor inherits an asset in that manner, a guardianship proceeding will likely be necessary to appoint a guardian to receive and manage the inherited assets on the minor's behalf. These proceedings take both time and money and, in many jurisdictions, the court will place restrictions on how/when the assets can be used for the beneficiary during the term of the guardianship. In addition, upon reaching age 18 (or in some cases age 21), the asset will be turned over to the beneficiary without restrictions on use. In our experience, there are very few clients who are comfortable with their children/heirs receiving even a small amount of money outright at those ages. Naming a disabled individual as a beneficiary may affect the beneficiary's ability to qualify for public benefits. Both of these issues can be avoided by naming a trust as the beneficiary.

Life Changes, So Change With It
Life often changes quickly – birth, death, marriage, divorce, new home, or job change – but often clients forget to review their estate plans and beneficiary designations in light of these events. This is where plans can fall apart. For example, your beneficiary designation may include only your first two children and not your third or has not been updated to reflect an unexpected death of a beneficiary. Coordinating your beneficiary designations with your estate plan can cut down on the necessity to update your beneficiary designations with each life change or, at the very least, provide you with some guidance as to which situations should cause you to conduct a simple review of and update to these forms.

"Trust" Yourself!
You may have, or want, a revocable trust as your primary estate plan mechanism. Revocable trusts provide privacy, flexible administration and important protections for your beneficiaries. Beneficiary designations are an effective way to move your assets into your trust and to take advantage of the many benefits of trust planning without affecting ownership of assets during lifetime.

Retirement Accounts Can Be Taxing
Selecting beneficiaries for a retirement account can be tricky and is best accomplished with guidance from your legal and financial advisors. For income tax deferred assets, such as IRAs or 401(k)s, it is generally advisable for a spouse to be named as primary beneficiary to maximize the income tax deferrals and other administrative privileges provided to surviving spouses of those accounts. Choosing who to name as a contingent beneficiary is a little tougher since there are income tax and other considerations that should be evaluated when making this determination. While many advisors mistakenly believe that a trust cannot be named on these accounts without losing all income tax benefits afforded to them, this is not the case if the trust is drafted correctly. Additionally, there are often many non-tax reasons to transfer these accounts into a trust upon death rather than naming individuals. Legal advice can be invaluable in these situations.

Final Note
While there is no one-size-fits-all plan with regard to beneficiary designations, knowing the implications of your choices and making sure these designations are coordinated with your estate plan can save your heirs time, money, and stress. Seeking legal counsel regarding your designations can ensure that your assets will transfer as intended and in an efficient manner.

2017 Estate Tax / Gift Tax Exemptions

Today's record-high estate / gift tax exemptions provide clients with great opportunities for transferring assets free of tax during life or at death.

	2016	2017
Estate Tax/Lifetime Gift Tax Exemption	$5.45 million	$5.49 million
Annual Gift Tax Exclusion	$14,000/person	$14,000/person

Prince's Estate: A King-Sized Problem

2016 provided many great life lessons – including the importance of having an estate plan. This lesson was driven home by the death of musical artist Prince. As the nation struggled to process the unexpected loss of an icon, many were shocked to learn he died without an estate plan. As a result, the future of his multi-million dollar estate will be subject to an extensive court process governed by default laws – all of which could have been avoided with even a basic estate plan. Instead, his heirs are left to argue over who gets the Little Red Corvette…and everything else he owned when he died. While your estate may not be the size of Prince's, the message remains the same – a well-drafted estate plan is essential. Please contact a von Briesen Trusts & Estates attorney who will help you assess your objectives and create a plan that meets your needs.

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