

"Your Estate Matters" Legal-ease

By Ronda M. Gabb, NP, JD, RFC



No self-respecting woman would ever leave the house without a matching purse and shoes, right? Those of you who know me personally must have gotten a good belly-laugh at that statement! So why do so few estate plans bother to match the provisions of the Last Will and Testament (or Living Trust) with the correlating designations on beneficiary-driven assets (like life insurance, annuities, IRAs, 401ks)?

We usually suggest that you review your estate planning documents every three years, or more often if there are life-altering events. But this review should not be limited to your Will or Trust, it should also include all beneficiary designations and Powers of Attorney, Living Will, and location of your "Treasure Map" for assets (see my September 2019 article on this topic or visit my website at www.RondaMGabb.com).

Way too often we see trust provisions made in a Will (a testamentary trust) or in a Living Trust (an inter vivos trust), yet the beneficiary-driven assets do not match. For example, we met recently with an oil company executive with several children, one had special needs and the others were not yet ready to receive such a large inheritance outright. He actually had a pretty good will that included testamentary trusts

for the children, and a special needs trust for his son. But when I asked to review his beneficiary-driven assets, his very large (we're talking millions of dollars here) retirement account had the following box checked "to all my lawful children equally." Yes, his children would have inherited these assets without them going through his succession/probate BUT they would have each inherited a million dollars of taxable money outright, not subject to the terms of the trusts he created under his Will, of which his sister was going to be the children's Trustee.

Sometimes no beneficiary is named at all. A good financial advisor should never let that happen to your family. This causes a double-whammy: 1) those assets now must go through the decedent's succession/probate; and 2) it could cause an adverse income tax event, especially if all of the money must be pulled out in 5 years. I wish I could tell you that we don't see this often, but we do. Just this year alone, we have done several successions/probate that were totally unnecessary but for the lack of named beneficiaries.

Mind you, this double-whammy can also happen if you fail to update your beneficiary forms after your named beneficiary dies.

If husband named his wife as the only beneficiary and she predeceases him, then we are back to literally having no named beneficiary again. This is a good time to note that you should always name contingent (or secondary) beneficiaries on all plans in case your primary beneficiary predeceases (or dies with) you. Also, don't forget to check the "per stirpes" box next to your children's names if you want their share to go to their children (instead of the other named beneficiaries) in case they predecease you.

Next up: divorce--sorry, gotta go there. OK, so Louisiana law takes care of your Will or Living Trust after the divorce in case YOU forget to. This means that any bequests to your spouse in your Will and/or trust are negated upon the signing of the Judgment of Divorce. But guess what? Yep, this does NOT apply to your beneficiary designations! Just last month I had to levy the bad news to a friend whose dad's life insurance still named his ex-wife as the beneficiary (it was my friend's ex-stepmother).

Now do you see the importance of matching your purse to your shoes? Be sure that when you leave this Earth, all of your hard-earned assets will go to those YOU have chosen, and the beneficiaries receive their fair share only when you intended for them to have it.



See other articles and issues of interest!

Ronda M. Gabb
& ASSOCIATES, LLC
A LOUISIANA ESTATE PLANNING
& ELDER LAW PRACTICE



Ronda M. Gabb is a Board Certified Estate Planning and Administration Specialist certified by the Louisiana Board of Legal Specialization. She is a member of the American Academy of Estate Planning Attorneys, National Academy of Elder Law Attorneys and the Governor's Elder Law Task Force. Ronda grew up in New Orleans East and first moved to Slidell in 1988, and now resides in Clipper Estates.