



From the Estate Planning & Settlement Group

PERSONAL PLANNING

Your Guide to Estate Planning, Wills, Trusts, and Probate

Editors: Thomas A. Doyle and Tara L. Velting

IN THIS EDITION:

- **The Do-It-Yourself Retirement Account "Checkup"** by M. Sean Fosmire

Enjoy your edition of our Summer Personal Planning Newsletter. We strive to be a continuing source of education for our clients and remain at the forefront of any new developments in the law.

THE DO-IT-YOURSELF RETIREMENT ACCOUNT "CHECKUP"

by M. Sean Fosmire

This article provides information to allow you to do a bit of your own preventive maintenance on your retirement accounts (pension, 401(k), 403(b), or IRA). Start by contacting the custodian of your account, most likely a brokerage house, and requesting a copy of your beneficiary designation form.

The following comments can serve as your guide to review the choices to ensure that they are properly made and up to date.

IRAs and other retirement plans have certain rules that make them different from other types of property. One of the most significant is that you cannot rely on your will or personal trust to determine who will inherit the account. The question of who is to receive the money after your death is determined by a designation made by you, as the owner, typically on a form provided by the custodian. If you do not make such a designation, many plans specify a default beneficiary, and very often that default beneficiary is not the one you would choose.

Retirement accounts do not require the owner to start taking distributions until after his 70th birthday. (For Roth accounts, there are no mandatory distributions during his lifetime.) If the owner dies, however, the law requires that the person who inherits the account (excepting only the spouse of

the owner) must begin taking mandatory annual distributions from the account. This does include Roth accounts.

The Designated Beneficiary

You should be sure that you have properly named a designated beneficiary. You do not want your estate to be the beneficiary, either by being named or by default, because that will result in all of the money in the account having to be paid out to the beneficiaries of the estate within five years of your death. If you have a properly named beneficiary, he will usually be able to use his own life expectancy for the payout schedule, which for a beneficiary in his 40s or 50s will result in very small mandatory distributions in the early years. This in turn will allow the remaining funds to continue to grow. This is referred to as the "stretch payout" schedule, and the account inherited by a designated beneficiary is sometimes referred to as a "stretch IRA".

The ability to take advantage of the "stretch" option is very important because all distributions from the account are taxable as income. (Distributions from Roth accounts, however, are not taxable.) You do not want to have unneeded funds distributed to your heirs within five years, subjecting them to high taxes and depriving them of the continued earning power of the account.

If you are married, your spouse should be your designated beneficiary. Your spouse will be able to

convert the IRA to his or her own name, and thus delay mandatory payouts until after his or her 70th birthday, something that no other beneficiary may do. (All other beneficiaries are required to begin taking distributions beginning with the year after the owner's death.)

For employer-provided plans, including defined benefit plans and 401(k) plans, if you are married your spouse must be your designated beneficiary. If you get married, your spouse will automatically replace the designated beneficiary. If you get divorced, be sure that you discuss the need to make a change with a qualified professional. Do not simply assume that your ex-spouse no longer has an interest in the account, because it may be that he or she still does, regardless of what the divorce judgment says.

The Contingent Beneficiary

You should be sure that you have also named a contingent beneficiary, who will receive the account if the designated beneficiary predeceases you.

Note that the contingent beneficiary will not succeed under the account if your designated beneficiary dies after you do. The contingent beneficiary will be relevant only if the designated beneficiary is not alive at the time of the owner's death. If your designated beneficiary dies after you do, his or her heirs, not the named contingent beneficiary, will succeed to the interest.

In General

If either your designated beneficiary or your contingent beneficiary dies, or if you get married or get divorced, you should take steps to update your designation.

Beware of naming older relatives as beneficiaries at either level. They may be Medicaid recipients or applicants at the time that they inherit the account, and this can create financial problems for their Medicaid eligibility. In addition, of course, older beneficiaries would have a much shorter life expectancy, and for them the "stretch" would be short.

More than one person can be named as primary or contingent beneficiary. If you do name more than one person, be sure to specify that the account will

be divided among them, and how. You are allowed to include a survivorship condition, providing that the survivor of two or more beneficiaries will receive the account.

There are special steps that must be taken if attempting to designate a charity as one of two or more beneficiaries.

In general, you are not limited to the form that is given to you by the plan sponsor. A designation can be as detailed as you want it, and a complex designation on a separate page can be referenced on the sponsor's form.

It is possible in some situations to name a trust as a beneficiary, and to preserve the right of the trust's beneficiaries to use the "stretch payout" method, but this has to be carefully done, in consultation with a qualified professional, because an improper trust structure will end up reverting to the five-year rule.

Estate Planning & Settlement Group

Ann Arbor

1-800-878-5600
Suzy Fanning

Marquette

1-888-841-7772
Sean Fosmire

Detroit

1-800-875-1530
John McSorley

Port Huron

1-800-875-4400
Robert Goldenbogen

Grand Blanc

1-800-875-3700
Bennett Bush

Traverse City

1-888-923-1611
Michael Swogger
Heather Bruce

Grand Rapids

1-800-494-6312
Tara Velting

Troy

1-800-875-7600
Thomas Doyle

Lansing

1-888-910-0300
Thomas Doyle

Minimum distribution schedule (beneficiary)

Beginning amount \$ 100,000.00

Assumed rate 7%

YEAR	AGE	DIVISOR	BEGIN	EARN	MRD	END
2006	50	34.2	100,000.00	7,000.00	2,923.98	104,076.02
2007	51	33.2	104,076.02	7,285.32	3,134.82	108,226.53
2008	52	32.2	108,226.53	7,575.86	3,361.07	112,441.31
2009	53	31.2	112,441.31	7,870.89	3,603.89	116,708.31
2010	54	30.2	116,708.31	8,169.58	3,864.51	121,013.38
2011	55	29.2	121,013.38	8,470.94	4,144.29	125,340.02
2012	56	28.2	125,340.02	8,773.80	4,444.68	129,669.14
2013	57	27.2	129,669.14	9,076.84	4,767.25	133,978.74
2014	58	26.2	133,978.74	9,378.51	5,113.69	138,243.56
2015	59	25.2	138,243.56	9,677.05	5,485.86	142,434.75
2016	60	24.2	142,434.75	9,970.43	5,885.73	146,519.45
2017	61	23.2	146,519.45	10,256.36	6,315.49	150,460.32
2018	62	22.2	150,460.32	10,532.22	6,777.49	154,215.05
2019	63	21.2	154,215.05	10,795.05	7,274.29	157,735.81
2020	64	20.2	157,735.81	11,041.51	7,808.70	160,968.61
2021	65	19.2	160,968.61	11,267.80	8,383.78	163,852.63
2022	66	18.2	163,852.63	11,469.68	9,002.89	166,319.42
2023	67	17.2	166,319.42	11,642.36	9,669.73	168,292.05
2024	68	16.2	168,292.05	11,780.44	10,388.40	169,684.09
2025	69	15.2	169,684.09	11,877.89	11,163.43	170,398.55
2026	70	14.2	170,398.55	11,927.90	11,999.90	170,326.55
2027	71	13.2	170,326.55	11,922.86	12,903.53	169,345.88
2028	72	12.2	169,345.88	11,854.21	13,880.81	167,319.29
2029	73	11.2	167,319.29	11,712.35	14,939.22	164,092.41
2030	74	10.2	164,092.41	11,486.47	16,087.49	159,491.39
2031	75	9.2	159,491.39	11,164.40	17,336.02	153,319.77
2032	76	8.2	153,319.77	10,732.38	18,697.53	145,354.62
2033	77	7.2	145,354.62	10,174.82	20,188.14	135,341.30
2034	78	6.2	135,341.30	9,473.89	21,829.24	122,985.95
2035	79	5.2	122,985.95	8,609.02	23,651.14	107,943.82
2036	80	4.2	107,943.82	7,556.07	25,700.91	89,798.98
2037	81	3.2	89,798.98	6,285.93	28,062.18	68,022.73
2038	82	2.2	68,022.73	4,761.59	30,919.42	41,864.90
2039	83	1.2	41,864.90	2,930.54	34,887.41	9,908.03
2040	84	0.2	9,908.03	693.56	10,601.59 -	

425,198.53