

## **HAVE YOU REVIEWED YOUR BENEFICIARY DESIGNATIONS?**

**By: Douglas A. Fendrick, Esquire**

*Law Offices of Douglas A. Fendrick, LLC \* 1307 White Horse Road, Building B  
Voorhees, NJ 08043 \* Phone: 856/489-8388 \* Fax: 856/489-8424*

The start of a new year always brings out certain resolutions. An important resolution for many individuals is to establish an estate plan. Properly drawn estate planning documents can protect finances, both during life and after death. Establishing an estate plan can also save your family from paying Federal and New Jersey estate taxes. Regardless of age or financial status, everyone should have a Will, Living Will, and General Durable Power of Attorney.

Furthermore, the beginning of the year is a great time to review your beneficiary designations. Often clients are surprised to learn that beneficiary designations can supersede the provisions of their Will. Many individuals spend a substantial amount of time and money to establish their estate plans. Those same individuals may spend only a few minutes designating the beneficiaries of their IRA's and life insurance policies. Sometimes the beneficiaries listed on a particular account are not consistent with the provisions spelled out in a Will. The result can be that your IRA's and life insurance policies pass in an undesirable manner.

Careful attention should be given as to whom you have listed as beneficiary on your IRA's. The IRS rules for determining when income tax has to be paid on an account holder's death vary depending upon who is listed as the designated beneficiary. There is not a standard beneficiary designation that applies to everyone. Instead, the proper beneficiary depends on the account holder's goals and objectives.

Often married couples designate their spouse as a beneficiary. If a spouse is a beneficiary then this provides the most flexibility. A spouse can "roll over" IRA proceeds into their own account or leave the IRA in the deceased account holder's name as a beneficiary designated account. If a "roll over" is elected then distributions do not have to be made from the IRA until the spouse reaches their required distribution date (generally April 1 of the calendar year after reaching the age of 70 ½ ). Consequently, income tax does not have to be paid until distributions are made.

If a deceased account holder has children from a prior marriage they may not want their IRA passing directly to their spouse because they fear that the surviving spouse will exclude the children from the first marriage from receiving a portion of the account. Furthermore, if a trust was established by the deceased account holder they may prefer the funds be placed in the trust. If a trust is the beneficiary for retirement proceeds then different rules apply for

determining minimum distributions. As long as the trust meets certain IRS requirements distributions can be taken over the lifetime of the oldest beneficiary of the trust. This will enable IRA proceeds to be placed into the trust with out triggering immediate income tax on the entire account value.

If a child or grandchild is a beneficiary of an IRA then distributions can be made over the life expectancy of the child or grandchild. Usually this will provide the longest period of time to "stretch out" distributions from an IRA.

In summary, careful consideration should be given to whom you have designated on your accounts. Furthermore, contingent beneficiaries should be designated in case your initial beneficiary is not living. Both your primary and secondary beneficiaries should be reviewed periodically to verify that they are consistent with your Will.