

How Advisors Should Handle the IRA and Retirement Plan Beneficiary Designation Form

The ability to know what to do with an IRA or retirement plan beneficiary form can often help you bring in new business and retain existing business.

First, know we are on shaky ground. The conservative and proper legal advice is to request the client have their estate attorney fill out the beneficiary designation forms.

There are several advantages of having an estate attorney fill out the forms

- Eliminates or drastically reduces your exposure for not filling out the form correctly and consistent with the clients' wishes
- Presumably, the estate attorney has a "big picture" of how the estate will be distributed and the IRA and retirement plan beneficiary designation is an important piece to that entire puzzle

For most traditional clients, I prefer the plan described in chapter 12 of *Retire Secure* (Wiley, 2006). The chapter, "The Ideal Beneficiary Designation of Your Retirement Plan" describes what I consider the "master plan".

But, for now, let's assume you have a hot prospect who is in your office and they are ready to roll. Do you really think I would have you say, "wait, I can't accept your money until we get the right wording from your attorney?" NO.

Assume that you have a traditional family with children and grandchildren or even the potential to have grandchildren in the future. Let's also assume that your client and their spouses trust each other completely and the client's children are by now responsible adults (if not, see the discussion about trusts below).

Primary Beneficiary:

My spouse _____

Contingent beneficiary

My children _____, _____, and _____ equally, per stirpes

Per stirpes is Latin for by representation. Adding per stirpes is critical. Let's assume one of your client's children either predeceases your client or your client's child wants to disclaim a portion of the inherited IRA to their children, i.e. your client's grandchildren. Without the words, per stirpes, (assuming that the form does not have a box to check to indicate a per stirpes designation), the share of the predeceased or disclaiming child would not go to their children, but rather to their siblings, because the majority of beneficiary forms do not assume a per stirpes distribution unless you specifically state

“per stirpes” in the designation. Presumably, most of your clients do not want to disinherit their grandchildren. Without per stirpes, you could have a grandchild that not only lost their parent, but also lost any inheritance they may have used for support, education, etc.

I also recommend putting current addresses and social security numbers on the IRA or retirement plan beneficiary designation.

Please note, however, that even this solution is only a partial and temporary solution. This solution still allows the possibility of having your client’s grandchild (or child if they are young) drinking \$1,000 per bottle champagne to celebrate their purchase of a new Hummer on their 21st birthday.

So, to do the job right, you should name a well drafted trust, either a dedicated trust or a trust that is currently part of the client’s will or living trust, for the benefit of grandchildren (or children if client’s children are young and/or not sufficiently mature to handle an inheritance). In addition, you need at least one trust for each set of your client’s children’s children. There are lots of variations on these trusts, but for the IRA beneficiary purposes, they must meet 6 specific conditions in order to preserve the “stretch IRA” for the grandchildren.

Therefore, what will be a combination of practical, yet also proper advice is to fill out the forms the way I have suggested and recommend both orally and in writing that your client see a qualified estate planning attorney to properly fill out the IRA and retirement plan beneficiary forms.