

A Single IRA Mistake Can Thwart Well-Laid Plans

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Before Leonard Smith lost his battle with cancer in 2008, he worked with his financial advisor and attorney to make sure his children received the balance of his retirement funds when he died.

A single mistake, however, thwarted his well-laid plans. Family members realized a year after he died that his IRA beneficiary form was filled out incorrectly. Instead of specifically designating the names of his children along with the percentage to each, Smith wrote: “To be distributed pursuant to my last will and testament,” where the distribution of funds was spelled out.

But Smith’s failure to correctly complete the IRA Beneficiary Designation Form invalidated his will and made his surviving spouse the beneficiary of his IRA by default.

“I had no idea that a will could be trumped by an IRA beneficiary form,” Deborah Smith-Marez, 50, Leonard’s daughter, said.

Smith-Marez and her siblings fought in court to recover the money, but the court awarded the \$400,000 in the IRA to their father’s wife, who was a much younger woman he married just two months before his death.

Like Smith-Marez, many Americans are unaware that long-forgotten beneficiary forms -- or recently signed forms that aren’t completed correctly -- can override a will and undermine their loved ones’ intentions.

How does this happen? Beneficiary forms are meant to be a straightforward method for heirs to bypass the probate process and receive funds in a timely manner by “operation of law”. But sometimes account holders forget they’ve filled out these forms and fail to review them for accuracy, for consistency with their overall planning goals, or to update them to reflect major life changes.

Assets in an estate are governed separately from accounts that are owned with beneficiary designations, such as retirement accounts, life insurance policies, bank accounts, certificates of deposit, stocks, annuity contracts, bonds, and mutual funds. If your will or your living trust identifies one person as your beneficiary while your IRA beneficiary designation names someone else, the IRA beneficiary designation will supersede and control, making the will or living trust provisions unenforceable.

Americans now store more and more of their wealth in retirement accounts, with an estimated \$6.5 trillion held in IRAs and \$5.9 trillion in employer-based defined contribution plans such as 401Ks, which require beneficiary forms to designate recipients upon the account holder’s death.

Unfortunately, there are no automatic reminders to update these forms on a regular basis; the account holder has the responsibility to keep them current and valid.

After losing a loved one, fighting with family over money compounds the emotional toll. To keep this from happening, here are five tips:

- 1) Set aside time at least once a year to review your beneficiary designation forms. These forms will override your will 99% of the time so it's important to keep them up-to-date and to make sure that the provisions in your will and the beneficiary designations on your accounts don't contradict each other. You should fill out a new form if you've had a birth, death, marriage, or divorce in your family or if you've experienced some other change in circumstances that impacts your planning goals. If you can't find your beneficiary designation form, ask the financial institution (the plan custodian) for a new one. If you choose to fill out this form online, make sure to print a hard copy for your files.
- 2) When filling out a beneficiary form, don't forget to designate percentages next to the names of your beneficiaries. You can also write "in equal shares" if you want the assets to be distributed equally. Also, by adding "*per stirpes*," which is Latin for "bloodline," after your beneficiaries' names and the percentages, you ensure that the IRA share will go to a deceased beneficiary's surviving descendants.
- 3) If the institution where your money is held changes its name or merges with another financial institution, fill out a new form. Forms with old institution names may not be valid, but no one will go out of their way to tell you that.
- 4) Keep hard copies of your beneficiary designation forms, including your "payable on death (POD)" forms and your "transfer on death (TOD)" forms in your emergency file. If all of these forms are in your account online, keep hard copies on hand because computer systems change and the forms might be hard to track down, especially if the financial institution has merged or changed names.
- 5) Work with a knowledgeable financial advisor and/or estate planning attorney. Many financial planners and attorneys who do not specialize in estate planning can make mistakes when filling out forms because of a lack of familiarity with the law or just plain inexperience.

When is the last time you reviewed your beneficiary designation forms to be sure they are consistent with your goals, your current circumstances, or any changes in your estate plan? In many cases the form is only one or two pages long and appears simple to use, but don't be deceived by that seeming simplicity. You should engage an experienced financial advisor or estate planning attorney to review the form and provide you with guidance on how to complete it properly. The stakes are too high to do otherwise.

Remember: no one cares more about your estate planning than you do.