Fall 2021 Newsletter

The Fall 2021 newsletter includes an estate tax update and the importance of updating your Beneficiary Designation forms as well as Transfer on Death or Payable on Death forms you have completed as part of your overall estate plan.

Estate Tax Update:

For a number of months now, Congress has been debating over how to pay for the additional government benefits in the Build Back Better Act Bill, which initially included sweeping changes to Estate Tax Law, including:

(1) The elimination of the number of Irrevocable Gifting Trusts, used to transfer wealth with minimum gift tax impact by high net worth clients, and...

(2) A decrease in the estate tax exemption from the current level ($11.7 million) to approximately $6.2 million on January 1, 2022.

As of the date of this newsletter, the latest version of the bill eliminates **all** proposed changes to estate tax law, relying on other tax revenue methods which primarily target extremely wealthy individuals. This is a highly fluid situation, and this may change, so stay tuned.

Designation of Beneficiary Forms:

If you have a retirement account or own a life insurance policy or an annuity, you’re probably aware of Beneficiary Designation forms. Proper completion of the Beneficiary Designation form is an important part of the estate planning process. The company where you have purchased your life insurance policy or annuity or who is the custodian of the retirement plan has created its own internal Designation of Beneficiary form for you to complete. Its proper completion is intended to ensure that your assets are transferred to the right person, people, or entity, upon your death. Let's take a look at why these designations mean so much to your estate plan — and your legacy.

What is a Beneficiary?

Simply, a beneficiary is a recipient of assets. To put it in more legal terms, a beneficiary is a person or entity that is named on a financial instrument or account to receive the property or asset at the death of the owner.

When you think about the Designation of Beneficiary forms, your life insurance policy likely crosses your mind but retirement, checking, savings, and investment accounts can also include beneficiaries in the form of either TOD (Transfer on Death) or POD (Payable on Death) designations.

Beneficiaries do not have to be family members. They can be neighbors, siblings, partners, close friends, even institutions or charities. Assets can also be split among multiple people and entities, furthering the way you customize your estate plan.

Official Designations Supersede Your Will:

One of the most confusing concepts is the relationship between your beneficiary designations from the Designation of Beneficiary form and your will or trust. Assigning beneficiary designations on the Designation of Beneficiary form is a separate process from leaving people assets in your will or your trust.

Beneficiary designations on the Designation of Beneficiary form take precedence over what you've specified in your will or trust. For example, if you leave everything to your children in your will, but your brother is listed as the beneficiary on your assets that are controlled by Beneficiary Designation forms, Transfer on Death, or Payable of Death forms, those assets will go to your brother, not your children. Even if your will mentioned the asset controlled by the Beneficiary Designation form, it will not control its disposition at the time of your death.

Beneficiary designations are a form of estate planning and should be selected with careful intention. Including beneficiaries on an account is just like a contractual arrangement. Therefore, it is vital to review them often to make sure that your true intentions are in place. The last thing you want is for your valuable assets to end up in the wrong hands!

How TODs and PODs Factor In:
Utilizing Transfer on Death (TOD) and Payable on Death (POD) accounts puts you in control of where your assets end up and allows the assets to bypass probate. The assets in these accounts will go directly to the named beneficiaries regardless of what is stated in your will.

Transfer on Death (TOD) is a special account that can be established for brokerage accounts, other investment accounts, and in some cases securities. Once the account owner passes, all assets in the TOD are passed to the beneficiary without probate.

You can transfer an existing account into a TOD or establish a new one. Avoiding probate is a great benefit, but TODs can also beget complications with joint TOD accounts (multiple marriages and children, or the owner can disinherit a beneficiary). You also have to be cautious about listing minor children as beneficiaries because most state laws prohibit minors from controlling assets or property.

Payable on Death (POD) is an arrangement to establish beneficiaries on bank accounts and CDs. The beneficiary can't claim the money while the account owner is alive, but after they pass, the account is automatically transferred, also avoiding probate. The key benefit with POD accounts is that there is an increased FDIC insured assets amount. For example, FDIC coverage can increase from $250,000 to 1.25 million if five parties are included between the owner and beneficiaries on the account(s). If you have multiple accounts at one institution, this could be an excellent benefit if there is a financial institution collapse in the future.

Update Your Beneficiaries Frequently:
Your beneficiary designations play a significant role in the distribution of your assets. You want to review your beneficiaries frequently to keep everything up to date — especially necessary when there is a life-or-death event within your family. **Remember, the terms of your Will or**

trust do not control the disposition of assets controlled by beneficiary designations! We recommend reviewing your beneficiary designations every 1 to 3 years to make sure everything is in place.

Covid-19 Mask Update:
Recently, the CDC issued guidelines regarding face masks which include ***"…a recommendation for fully vaccinated people to wear a mask in public indoor settings."*** The reversal of the CDC is due to the massive rise of the delta variant of Covid-19, which has seen rapid transmission across the country, including in the State of New Hampshire. The Governor of New Hampshire recently announced that this winter may be in fact worse than last winter when it comes to the transmission of the disease.

Given the travel radius of clients and staff, as well as the fact that we primarily serve elderly clients, McSwiney & Wood Law Firm P.C. has made the decision to once again require face masks when in our office for all visitors and staff.

You have options for meeting with us. Effective immediately, in-person meetings are being limited to when you need to sign documents we prepare for you. During an in-person meeting, you will be required to wear a face mask. If you didn't bring a face mask, we have complimentary ones available in our conference room. You can also meet with me via Zoom or via telephone conference for meetings that do not require document signings.

We will continue to monitor the situation and communicate any updates as circumstances change. Please contact us if you have questions or would like to make a change to an upcoming appointment.

Sincerely,

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