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Who Inherits Your Retirement Account Assets After Your Death?

BY DENNIS ROGINSKI

Janet worked as an attorney for nearly 25 years. She had built up her 401(k) to a decent amount and named her husband of 35 years as the primary beneficiary and her three children as contingent beneficiaries. Unfortunately, Janet's husband died. She updated her 401(k) beneficiary form to name her three children as the primary beneficiaries, each of them getting one third of the 401(k) assets after her death. A few years later, Janet remarried. She did not update her beneficiary form, since she wanted her children to inherit her retirement assets. As fate would have it, Janet died six months later, about a year before she planned to retire. Who might be first in line to claim Janet's 401(k) assets? The correct answer is Janet's new husband.

What went wrong?

Even though Janet's children were named on the 401(k) beneficiary form, the company's 401(k) plan stated that the spouse has a right to the assets, unless the spouse signs a waiver. In this case, Janet's new spouse did not

sign a waiver; therefore, he was entitled to the assets. This waiver is usually required in community property states, but can also be required in non-community property states. If your spouse is not the beneficiary, check your company's summary plan document (SPD) and the laws in your particular state to see if a signed waiver is required.

If your ex-husband is still on the beneficiary form, he could be entitled to your retirement assets.

Here is another scenario. Are you a divorced woman who has an IRA or a 401(k)? If you do not want your ex-husband to receive the assets after your death, you must update your beneficiary form to reflect this desire. If your ex-husband is still on the beneficiary form, he could be entitled to the retirement assets, even if you state in your will that your children are to receive your IRA or 401(k) assets. *The IRA/401(k) beneficiary form normally trumps the will.*

More reasons to update your beneficiary form

Has your situation changed in any way that would require a change to your beneficiary form? Did you have another child and want to add him or her to the beneficiary form? Did you remarry and now have step children? Do you want them added to the beneficiary form? Do you want to add your new husband as a beneficiary? These are just a few examples of changes that might generate a call to action.

Updating your beneficiary form is easy

It is a very easy process to update your IRA/401(k) beneficiary form. It normally doesn't cost anything except a few moments of your time. *Do not procrastinate.* Call your financial adviser if you need to update your beneficiary form. Don't allow your hard-earned retirement assets to be inherited by the wrong person when someone else was your intended beneficiary. After your death the legal battles could be costly and protracted for your loved ones.

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