

IRA and QRP Complex Beneficiary Designation Issues



Learning Objectives

- ✔ Identify the challenges administrators face in obtaining and maintaining beneficiary designations
- ✔ List an example where a plan document could override a beneficiary designation
- ✔ Discuss how various state laws, such as slayer statutes, may affect a beneficiary designation



Role and Importance of Beneficiary Designation Forms



Role and Importance of Beneficiary Designation Forms



Used to determine entitlement of benefits upon death



ERISA may place additional requirements on designations under a plan



Disputes may arise if not properly completed and maintained

Administrative Challenges



What administrative challenges do you face?

Obtaining Beneficiary Designations



Account owner



Often doesn't understand the importance of naming beneficiaries



Lack of communication with plan administrator or IRA trustee



Less likely to complete in a plan with automatic enrollment

Obtaining Beneficiary Designations



Education

- Importance of designating
- Disclose default beneficiaries



Form Challenges

- Unclear instructions
- Paper forms are prone to more errors, but required for spousal consent

Beneficiary Designation Review Process



Review process
should be in place
at time of
designation



- Clearly identifiable and understandable
- Add up to 100% at each level
- Authority to reject if unclear



Procedures to
obtain or clarify
missing or unclear
information

Retaining Beneficiary Designations



Important to determine how long to retain before requesting updated designations



Paper forms versus electronic—each has challenges



Third party administrators may present additional challenges if changed

Maintaining Beneficiary Designations



Keeping updated

- Long shelf life
- Circumstances change



Account owner education

- Unaware of when to change
- May not remember who was named

Death Benefits Under a QRP

A woman with blonde hair, wearing a plaid shirt and light-colored pants, is sitting cross-legged on a wooden dock. She is looking out over a calm body of water towards a distant shoreline with trees. The scene is captured in a soft, slightly desaturated light, creating a peaceful and contemplative atmosphere.

QRP Document Requirements

- you are no longer
- you attain the normal retirement age
- you become disabled under the Plan
- your employer terminates the Plan
- your Plan permits in-service distributions

GENERAL INFORMATION

Name of Plan _____



Plan documents and ancillary forms important in determining death benefits and beneficiaries

QRP Rollover Certification

Please see the important instructions on the third page of this form.

GENERAL INFORMATION

Name of Plan _____



Many factors may result in confusion and potential disputes

QRP Designation of Beneficiary

Please see the important notice about Qualified Pre-Retirement Survivor Annuity on the last page of this form.

GENERAL INFORMATION

Name of Plan _____
Name of Employer _____
Address _____
City _____ State _____ Zip _____
Name of Participant _____
Home Address _____ Date of Birth _____
City _____
Social Security Number _____
State _____ Home Phone _____



Plans subject to REA generally require QRP distributions to participants and beneficiaries be QPSAs or QJSAs

OPTIONAL CURRENT MARITAL STATUS

- I Am Not Married – I understand that I am designating the individual(s) named below as my primary and/or contingent beneficiary(ies) to my qualified plan balance and hereby revoke all prior beneficiary(ies) designations, if any, made by me.
- I Am Married – I understand that my spouse is my primary beneficiary(ies) and I am designating the individual(s) named below as my contingent beneficiary(ies) to my qualified plan balance and hereby revoke all prior beneficiary(ies) designations, if any, made by me.

DESIGNATION OF BENEFICIARY(IES)

- REPLACE BENEFICIARY(IES) – I designate the individual(s) or entity named below as my primary and/or contingent beneficiary(ies) to my qualified plan balance and hereby revoke all prior beneficiary(ies) designations, if any, made by me.
- ADD BENEFICIARY(IES) – I designate the individual(s) or entity named below as my primary and/or contingent beneficiary(ies) to my qualified plan balance and hereby revoke all prior beneficiary(ies) designations, if any, made by me.

REA Safe Harbor Plan



Certain profit sharing plans where

- 100% vested balance paid to spouse
- Plan doesn't offer life annuity option
- Participant's balance doesn't include transfer amounts from money purchase or defined benefit plan

QPSA

- Annuity using at least 50% of participant's vested balance
- Written notice provided at certain times
- Notice must inform participant of right to waive QPSA
- Spouse must consent to waiver and must be witnessed or notarized



QJSA

Annuity for participant's life with survivor annuity payable over spouse's life

If plan offers QJSA, must provide participant QJSA notice

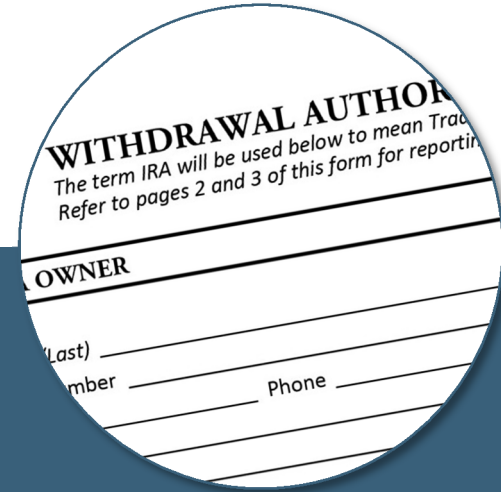
DB, MPP, and TBP must provide a QJSA to all married participants, unless written consent for another form of benefit payment

Spouse must consent to another form of benefit, consent must be witnessed or notarized

REA Waivers



Beneficiary designations
Most contain REA waivers



Withdrawal forms
Most contain REA waivers

Death Benefits



Plans Not Subject to the
QJSA Rules



Plan must pay death benefit in full to surviving spouse



If spouse previously consented to the naming of different beneficiary, then payable to named beneficiary

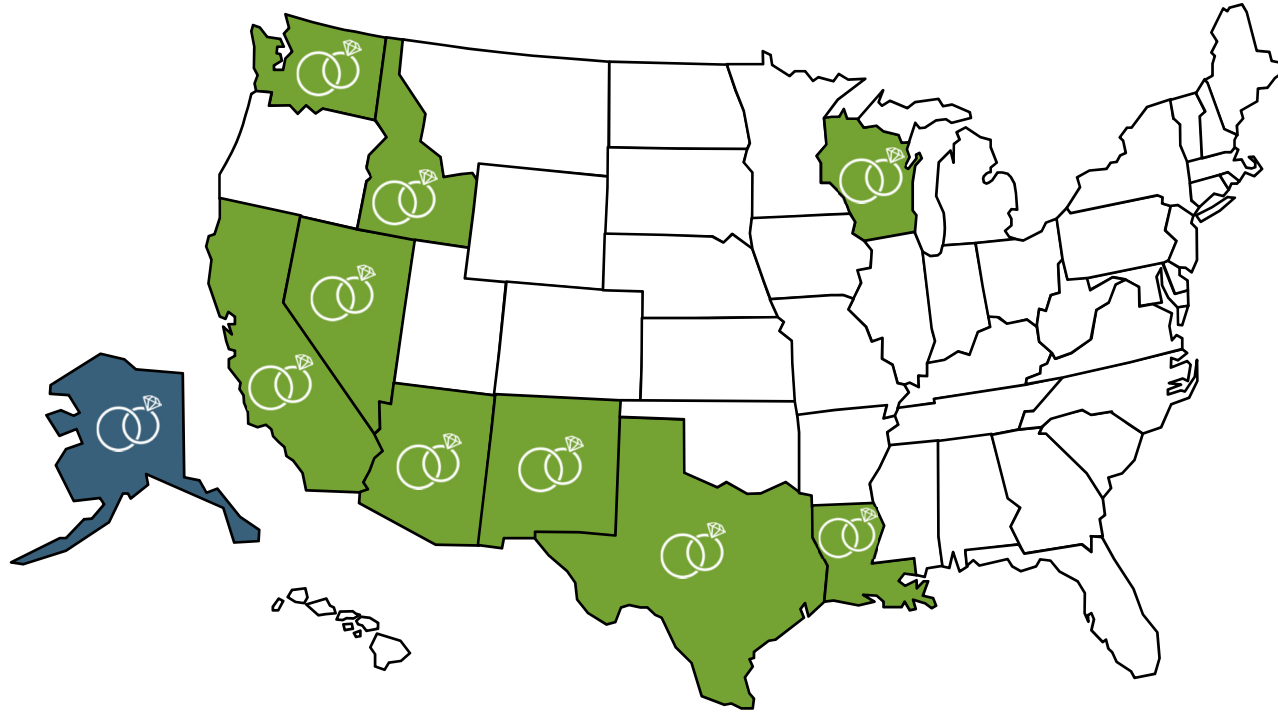


If someone other than spouse is named, but no spousal consent was provided, then payable to surviving spouse



IRA Document Issues

Spousal Consent With IRAs



Spousal Consent with QRPs



Qualified plan administrators do not need to be concerned with community property laws



Married participants must list spouse as beneficiary or obtain proper consent



QDROs assist plan administrators in properly distributing assets in the case of divorce or separation



Issues That Could Affect Both QRP and IRA Designations

Excess or Ineligible Contributions



- Contributions that should not be in the plan or IRA
- Executor of estate should correct and include in decedent's final tax return

Divorce



Documents or state laws may revoke former spouse as named beneficiary



If QRP document contains language revoking former spouse, remaining beneficiaries receive assets



If IRA document doesn't contain language revoking former spouse, state law may dictate

Slayer Statutes



- Most states have slayer rules
- Documents may contain a similar provision



State statutes often differ regarding effect of insanity, intentional homicide vs. manslaughter, slayer's heirs' rights, and if criminal conviction is required



Allows courts to presume slayer disclaims interest and is treated as though he predeceased the victim

Simultaneous Death of Account Owner and Beneficiary



USDA drafted to default that an individual must survive each other by 120 hours to avoid disputes or additional probate



Governing instruments may include language addressing simultaneous or common incident deaths which waives the 120-hour survival period



Fundamental rule: if one individual does not survive another by 120 hours, he is treated as predeceasing the other

Trusts as Beneficiaries



Eliminate or
reduce taxes



State law issues
with minor
beneficiaries



Retain control
after death

Trusts as Beneficiaries



Qualified trusts

Options generally mirror those available to underlying trust beneficiary



Nonqualified trusts

Options mirror those available to nonperson beneficiary

Qualified Trusts



- Valid under state law
- Irrevocable upon death
- Identifiable beneficiaries
- Copy of trust by October 31 of year following year of death

“Looking Through” the Trust Document



Pass assets through to underlying beneficiary



Trustee may have no real discretion in distributing trust assets



Trustee may ask to have assets paid directly to underlying beneficiaries



Follow trustee’s direction or require more legal protection before agreeing to the request?

Have Trust Provide a Favorable Private Letter Ruling



Spouse is sole underlying beneficiary of trust



Has been allowed through PLR

Provide No Guidance at All



Assets often distributed based on will or state law



Personal representative responsible for collecting probate assets

Probate is monitored by court but is not mandated and can be avoided

Probate defined by each state's laws

Probate vs. Non-Probate Assets



Probate Assets

- Held in decedent's individual name only with no beneficiary designation
- Not held as joint tenants with rights of survivorship
- Pass through probate court



Non-Probate Assets

- Have a beneficiary designation or held as joint tenants with rights of survivorship
- Pass directly to named beneficiaries (e.g., 401(k), IRA, annuities, etc.)

Formal Probate



- Court-supervised process
- May take months or years
- Potential costly legal fees
- Creditors given limited time to file claims or barred from filing forever
- Property received with free and clear title

Small Estate Administration



Modest estate uses out-of-court small estate affidavit or in-court simplified probate procedure



States determine maximum amount that defines small estate



Property used to pay debts and balance distributed according to will or heirs if no will exists

Liability



Traditional Probate

- May be costly and slow
- Creditors file or waive rights to collect from estate



Small Estate Affidavit

- Less expensive but faster
- Beneficiaries may be liable for decedent's creditors

Applicability to IRAs and QRPs



Allow beneficiaries to be named and valid designations are non-probate assets



Occurrences that may make the amounts probate assets

- Death of a beneficiary
- IRA owner's divorce
- Invalid beneficiary designations



- Administrators often requested to make direct payments to underlying estate beneficiaries
- Recommend PLR, affidavit, or court order

Questions?

Thank you for attending

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