

August Newsletter from the Ukoha-Ajike Law Group!

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August Newsletter!

by Endy Ukoha-Ajike



I hope that you are all having a wonderful summer! Our clients ask all the time about designating their trust as the beneficiary of their retirement plan. Unfortunately my lawyerly answer is, “it depends”. Retirement benefit plans include IRA, SIMPLE IRA, SEP IRA, 401K, 403B, or 457.

The primary aim of retirement benefit plans under the Internal Revenue Code (the Code) is to allow the tax payer and his beneficiary/ies to defer the income taxes on the retirement plan as long as possible by deferring withdrawals from the account.

Ordinarily it is always better to designate a surviving spouse as the beneficiary of a retirement plan for the obvious reason above. “Trusts” and other persons who are not the surviving spouse may also be designated as beneficiaries if the circumstances of the owner of the account dictates it. *We shall briefly examine those scenarios below.*

Please join us on August 25th, 2016 at Lungomare Restaurant on the Jack London Square waterfront for wine, appetizers and our monthly seminar. This

Upcoming Events



**- August Seminar -
Retirement Planning:
10 Steps to Financial
Confidence**

Join us for our next free seminar with **Special Guest: Raymond Preston, Retirement Planning Specialist with AXA Advisors.** Wine and appetizers included! Space is Limited.

Date: August 25th, 2016

Time: 6pm-8pm

Presentation @ 6:30pm

Doors Open @ 6pm

Location: Lungomare

1 Broadway

Oakland, CA 94607

[RSVP Here](#)

month's topic is *Retirement Planning: 10 Steps to Financial Confidence* with special guest Raymond Preston. [RSVP](#) today. Hope to see you all there.

~Endy

Retirement Plans Beneficiary Designations – What to Do?

No Beneficiary is Named in the Account:

If there is no Designated Beneficiary in the account and the owner dies before the his/her RBD (required beginning date when the owner is supposed to start withdrawing is April 1 following the calendar year in which the owner reaches 70 ½ years), then the beneficiary (the estate) must withdraw all of the retirement account within five years of the owner's death. All of it is then taxed at the rate the estate would be taxed.

Designating a Non-Spouse as Beneficiary:

As a general rule it is not permissible to designate a business entity as a beneficiary. But a qualified trust may be designated as a beneficiary if it qualifies as a "designated beneficiary". Under IRS rules a Trust will qualify as a designated beneficiary if it meets the following requirements:

1. The trust must be valid under state law.
2. The trust must be irrevocable or become irrevocable at the taxpayer's death.
3. The trust beneficiaries must be identifiable.
4. Certain documentation must be provided to the plan administrator or IRA custodian by October 31 of the year after the taxpayer's death.

Why Designate a Trust as a Beneficiary?

There are several reasons why someone would designate a trust as beneficiary of a retirement plan as stated below:

1. It provides asset/creditor protection for the ultimate beneficiary such as division upon divorce,

Contribute to the Conversation!

Our goal is to make the seminar as informative and interactive as possible so please submit any questions that you have on this month's topic and Endy and Raymond will address them at the seminar.

[Submit Your Questions Here](#)

Important Notices



Required Beginning Date & Required Minimum Distribution

- **Required Beginning Date (RBD):** When the owner is supposed to start withdrawing is April 1 following the calendar year in which the owner reaches 70 ½ years.
- **Required Minimum Distribution (RMD):** Is the minimum amount you must withdraw from your account each year when the owner reaches age 70½. [Roth IRAs](#) do not require withdrawals until after the death of the owner.

or any other creditors that the beneficiary has.

2. If the beneficiary has a special need and relies on government benefits, a trust should be designated as beneficiary;
3. If the beneficiary is a minor or young adult, it is better to designate a trust because the minor cannot by him/herself receive the proceeds. A guardian would have to be appointed by the court to receive on the minor's behalf.
4. It allows the grantor/settlor of the trust to state the ages and dates of distribution of the proceeds (then in the trust) to the trust beneficiaries.
5. It avoids unintended disinheritance of children from a previous marriage who may be disinherited from the proceeds of the plan if the surviving spouse (2nd wife) is named as the beneficiary. This depends entirely on the trust being drafted properly to accommodate this concern.

Ultimately the owner has to weigh the reasons for designating a trust as beneficiary as compared to the tax benefits of deferring the tax on the money in the retirement account and decide which is more important to her/him.

When Does the Trust Start Withdrawing from the Account?

If a trust is designated as the beneficiary, then the trust may start making withdrawals from the account based on the life expectancy of the oldest beneficiary of the trust (that is, the trust's RMD is based on the age of the oldest beneficiary of the trust).

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Endy's Planning Tip:

Seeing how complex the rules regarding these designations are and how every owner's circumstances are different, it is good

practice to consult with your team together: your financial planner, estate planning attorney and accountant for an in-depth conversation and analysis before deciding what is best in your case.

Another alternative to consider may be to name the trust as a contingent beneficiary behind the named beneficiary or surviving spouse.

Share the news!



About Endy:

Endy is an Oakland (Jack London Square) based Tax & Estate Planning Attorney with over 13 years of experience. He has helped countless families throughout California develop individualized estate plans and has administered many estates over that period.

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