



## October Newsletter!

by Endy Ukoha-Ajike



Happy Fall to everyone!

Our clients often ask us 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/her 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.

Join us Thursday, October 26th, 2017 to discuss this and more at our last seminar of the year with guest speaker, Rashid A. Coleman, V.P./ Private Client Advisor / J.P. Morgan Chase Bank. We hope

## Upcoming Events

**- October Seminar -  
Plan for Retirement  
and Make it Last!**

Join us at our office for our October Seminar with Guest Speaker Rashid A. Coleman, V.P./ Private Client Advisor / J.P. Morgan Chase Bank.

Wine and Appetizers Included!  
Free to Attend. Space is Limited.  
Please Register to Reserve your Spot.

**Date:** October 26th, 2017

**Time:** 6:15pm - 8pm  
Doors Open @ 6:15pm  
Presentation @ 6:30pm

**Location:**

Ukoha-Ajike Law Group Office  
@ Jack London Square  
70 Washington St, Suite 303  
Oakland, CA 94607

[Register](#)

[Submit Your Questions](#)

that you can make it. Please [RSVP](#) to join!

~ 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. 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

## **Mark Your Calendars!**

### **2017 Client Appreciation Holiday Party**

- Thursday, December 7th  
5PM-9PM
- 

### **Contribute to the Conversation!**

Our goal is to make our seminars as informative and interactive as possible. Please let us know if there is any topic you would like to hear about at a 2018 seminar.

**Submit Your Topic  
Request**

---

### **Endy's Advice Corner**

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

ultimate beneficiary such as division upon divorce, 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 (2<sup>nd</sup> wife) is named as the beneficiary. This depends entirely on the trust being drafted properly to accommodate this concern.

Ultimately the owner must weigh the reasons based on their specific life circumstances 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).

the named beneficiary or surviving spouse.

---

---

### **Important Withdrawal Milestones**

---

- 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.

---

### Share the news!



Share



Forward



Share

---



### About Endy:

Endy is an Oakland (Jack London Square) based Tax & Estate Planning Attorney with over 16 years of experience. He has helped countless families throughout California develop individualized estate plans and has administered many estates over that period.



*Copyright © 2017 Ukoha-Ajike Law Group, P.C. All rights reserved.*

### CONTACT US:

**Phone:** [510.834.9944](tel:510.834.9944)

**Website:** [www.ukohalaw.com](http://www.ukohalaw.com)

### Mailing Address:

70 Washington St, Suite 303

@ Jack London Square

Oakland, CA 94607

---

This email was sent to <<Email Address>>

[why did I get this?](#) [unsubscribe from this list](#) [update subscription preferences](#)

Ukoha-Law Group, P.C. · Jack London Square · 70 Washington St, Suite 303 · Oakland, CA 94607 · USA

