

WILLS, TRUSTS & ESTATES: PLAIN AND SIMPLE

Should I Make All My Accounts Joint
and/or Designate a Beneficiary on each?
BEWARE!!

Your friendly neighborhood branch banker suggests that you change all your accounts to either joint with your kids, or to name your kids as beneficiaries on all your accounts (a “pay on death” beneficiary designation). She says this will make the administration of your estate when you die much less complicated and easier for everyone. Plus, you will avoid “dreaded” probate. Is she correct? It depends very much on each person’s situation, and such changes should not be made without discussing them with your estate planning attorney.

Frequently, the well-meaning banker does not have all the facts necessary to help you decide whether a change in title to your accounts is properly advisable. Assets that pass through a joint

account or a pay on death account (that is, any account with a designated beneficiary) are not controlled by your Will; the assets pass automatically upon your death to the named beneficiaries outright. This can have disastrous, unintended consequences and destroy your carefully thought out estate plan.

For example, Mary has three adult children, Chip, Mike, and Sally. Her husband died several years ago. Chip is very responsible and excellent with handling money. Mike has great trouble managing money and is constantly falling into debt, due to his bad financial decisions. Sally is disabled and receives government assistance.

Mary’s Will provides that, upon her death, her assets will be split into three equal shares, one for each of her children. Chip’s share is to be paid outright to him and Mike’s share is to be held in trust for his benefit with a responsible trustee to make decisions about the investment of the trust assets, as well as distributions to Mike. Sally’s share is also to be held in a special kind of trust (a supplemental needs trust) so that this inheritance will not disqualify her from receiving the government benefits she is currently receiving.

Mary visits her bank one day and the banker suggests to Mary that she make all her accounts pay on death to her three children equally. This sounds like a good idea to Mary, but she calls her estate planning lawyer to be sure. Her lawyer advises her not to put the children on as beneficiaries, as she wants the accounts to be paid to her children as set forth in her Will. Mary leaves her accounts as is.

Had Mary followed the banker’s suggestion, Chip would have received one-third of the accounts outright, which would have been fine. But Mike’s share would go outright to him and not in trust, with potentially disastrous results for Mike and clearly frustrating Mary’s intent. Sally’s share would also pass outright to her, rather than passing to a supplemental needs trust, thereby negatively affecting her eligibility to receive the government benefits she needs.

The bottom line is to carefully consider any beneficiary designations and changes to accounts and to discuss the effects of such changes with your estate planning lawyer before making any change.

If there is a trusts and estates topic that you would like to know more about, please feel free to email me at pmarcin@farrellfritz.com and I will do my best to cover it in a future column. My previous columns are available on www.farrellfritz.com.



Patricia C. Marcin is a partner at the law firm of Farrell Fritz, P.C. concentrating in trusts, estates and tax law. Patricia has lived in Lloyd Harbor for 1½ years with her husband, John Pastula, their two teenage sons, Sam and Matt, and their dog Blizzard.



“I’m so glad we updated our wills. Farrell Fritz helped us understand all the recent changes and the best part is, we minimized our estate taxes. I feel so much more secure about our family’s future.”

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