Sterling Private Wealth

Beneficiaries, titling and real-life risk:

The quiet details that can break good plans

It happens all too often: An individual takes the time to make difficult decisions, implement estate planning strategies, establish a trust—all the right things. Yet, following the person's death, the estate is still subject to probate and assets pass to unintended heirs. What went wrong?

The best intentions and strategies can sometimes be derailed by the smallest details. An overlooked beneficiary designation, an incorrect asset title or failing to consider how a life event may impact your plans can override even the most thoughtfully created estate planning strategies. The unfortunate ramifications of these small mistakes can leave families confused, assets stuck in probate and loved ones unintentionally disinherited.

As you're establishing your estate planning strategies, don't forget to tackle the following small details.

Beneficiary designations

Did you know that beneficiary designations generally take precedence over conflicting provisions in wills and trusts, subject to state marital property laws and spousal rights? If your beneficiary designations are outdated or incorrect, assets may inadvertently pass to unintended heirs, which is why it's vital to regularly review and update your beneficiaries.

Assets with beneficiary designations include:

- Retirement accounts, such as 401(k)s and IRAs
- Life insurance policies
- Annuities
- Payable-on-death (POD) bank accounts
- Transfer-on-death (TOD) brokerage and investment accounts

The assets above typically pass directly to the account's named beneficiary, regardless of the instructions included in other estate planning documents, though certain legal or spousal rights may apply.

To ensure your beneficiary designations continue to meet your estate planning needs, we recommend taking the following actions.

- **Set an annual calendar reminder to review your designations:** This helps ensure your primary and contingent beneficiaries remain aligned with your estate planning goals as your life and situation evolve over time.
- In some cases, **naming a trust as the beneficiary of your insurance policy** can provide you with more control over the assets' distribution and may help protect policy proceeds from creditors. Your advisor, CPA or estate planning attorney can help determine whether this approach is appropriate for your situation.
- **Carefully choose contingent beneficiaries:** Be sure to designate secondary beneficiaries to inherit assets if the primary beneficiary is deceased or cannot be located.
- **Coordinate with your other financial strategies:** Sometimes, it makes sense to name different beneficiaries on different assets, rather than split everything equally. This is especially true for business owners who plan to pass their business to one child but hope to equalize the inheritance value received by all children. Your wealth advisor can help ensure your beneficiary designations align with your overall goals and other financial strategies.

Asset titling

One of the most common estate planning mistakes is failing to properly title assets. Proper asset titling allows you to control how assets are distributed, whether the assets are subject to probate, how assets are taxed, how accessible they are to creditors and how they may be handled in the case of incapacity. Incorrectly titled assets can result in delays, extra costs, family disputes and assets being distributed to unintended heirs.

Common asset titling mistakes include:

- **Failing to retitle assets in the name of a trust:** Assets properly titled under a trust are subject to the trust's provisions and can help avoid the time-consuming and potentially expensive probate process. Trusts are one of several strategies that may help avoid probate, alongside joint ownership or beneficiary designations. However, assets that are not properly retitled or fully funded into the trust fall outside of the trust's provisions and may be distributed in an unintended manner, potentially triggering probate.
- **Inconsistent titling:** For example, your will specifies that assets should be distributed equally among your children, but you hold a joint bank account with just one child who is entitled to the entire balance. This can result in family disputes when the joint account holder receives a larger inheritance.
- **Joint titling with adult children:** Titling your assets jointly with your children can expose those assets to unexpected risks should your child face creditors, divorce or bankruptcy.

Evolving life events

Another common estate planning risk is failing to update your plan as your life evolves. If you forget to update your estate planning documents, titling and beneficiary designations after major life events, your assets could be distributed in an unintended manner. Common life events that require a review of your strategies include:

- A remarriage or blended family situation
- An adult child's divorce or bankruptcy
- A beneficiary who dies before you
- Your own incapacity or the incapacity of a loved one
- A special-needs family member who requires ongoing financial support
- Market or tax-law changes that impact how assets are valued or taxed at death

The best way to ensure your estate plan continues to meet your needs is by scheduling regular reviews with your advisor and estate planning attorney. We generally recommend reviewing your estate plan at least every three to five years, or whenever you experience a significant life event.

We work alongside Mariner's estate planning professionals to help ensure all aspects of your financial and legacy plans are working together toward your goals. Your advisor can help you review your current strategies and provide guidance to help ensure your plans are operating as intended.