

Dutchess County

PLANNING FOR YOUR FUTURE

Retirement benefits and estate plans

By Bernard A. Krooks, Certified Elder Law Attorney

For many of us, a significant portion of our net worth is in our retirement plan(s). Notwithstanding the recent turbulence on Wall Street, these accounts have been accumulating for many years and have grown to sizable sums. With careful planning and review, your retirement savings can not only provide a steady stream of income during your golden years, but they can also provide a nest egg for your loved ones after your death. By taking a few simple actions, you can ensure that your retirement accounts are maximized and left to the family members of your choice.

Making arrangements for the distribution of your retirement assets after your death is relatively simple. When you opened the retirement account, you were required to fill out beneficiary forms that designate whom you want to inherit your accounts when you pass away. Unfortunately, it's fairly easy to forget about these forms as the years pass by, and many people inadvertently leave their retirement assets to an unintended individual, such as a divorced spouse or a deceased parent, rather than the current spouse or their children. To avoid this problem, some people name their estate as the beneficiary of their retirement plans. Unfortunately, this can have unintended tax consequences by requiring the beneficiaries to withdraw the funds and pay taxes sooner than they would otherwise have to.

You can make sure that your retirement benefits go to the appropriate person by doing the following:

1) Make sure that you review your beneficiary designation forms every 2-5 years or whenever you experience a major life event, such as the death of a spouse, a second marriage, or the birth or adoption of a child. This is a relatively simple process that can save your heirs lots of heartache after you pass away. If you don't have a copy of your beneficiary designation forms, don't worry; you are not alone. Simply contact the retirement plan administrator or IRA custodian and ask them to send you a copy. Once you have filled these forms out, make sure you return them and ask the administrator or custodian to acknowledge receipt. This will minimize confusion after your death.

2) Name contingent beneficiaries so that your family will be provided for if the primary beneficiary pre-deceases you. While you may think that naming your spouse as your primary beneficiary is enough, you can never be too careful with the assets that will help support your family. There also are significant tax considerations to take into account when deciding who should be the primary and contingent beneficiaries of your retirement accounts. These decisions should not be made without the advice of competent tax counsel.

3) Do not rely on your will to take care of your retirement assets. A will does not control the disposition of any asset that has a named beneficiary (including life insurance, pensions, trusts, and retirement accounts). Any named beneficiaries on your retirement account, therefore, will override any beneficiaries named in your will. If you wish to leave your retirement assets to a trust you should seek the advice of an estate planning attorney.

4) If you've made the choice to name minor children as beneficiaries, you need to make sure you name a guardian for them and a trustee for their assets. Your retirement funds may be used to provide for the kids if anything happens to you, but minors are not legally allowed to control assets. They will need someone to manage their inheritance for them until they become adults.

Following these simple steps will ensure that your retirement assets work together with your overall estate plan, which will make things easier for your family.

Bernard A. Krooks, J.D., CPA, LL.M (in taxation), CELA, AEP® is a founding partner of the law firm Littman Krooks LLP with offices in Fishkill, White Plains, and New York City. Mr. Krooks is past President of the National Academy of Elder Law Attorneys (NAELA), past President, and a founding member, of the NY NAELA Chapter, and is past Chair of the Elder Law Section of the New York State Bar Association. He is immediate past President of the Special Needs Alliance (www.specialneedsalliance.org), a national not-for-profit organization dedicated to assisting families with special needs planning. Mr. Krooks is currently President of the Estate Planning Council of Westchester. Mr. Krooks may be reached at (845) 896-1106, or visit the firm's website at www.littmankrooks.com