

Think twice before listing minor as a beneficiary on IRA

By Denice Gierach

Many people like to leave the beneficiary designation on their IRA accounts with the specific names of family members. For instance, a husband might list his spouse as the primary beneficiary and, if she does not survive him, the children are listed as the secondary beneficiary. If the children are minors, will this be an effective transfer?

There are several problems with listing minors as beneficiaries of your IRA accounts. First, in order to have the money paid out from the custodian, the custodian may require that a guardian be appointed by a probate court. If the parents of the minor are separated or divorced, the parties can fight over who should be guardian and who should control the funds. All of this can result in significant unintended fees to the minor's parents, who may have to pay the tab in order to have access to the account.



In the event that the custodian requires a guardian, once the guardian has the money, the guardian does not have unfettered access to use it for the benefit and care of the minor child. Many probate courts will require that the guardian come into court to request access to the account. Without such access, it may be frozen until the minor attains the age of majority under the law.

Another problem is that once minors attain the age of 18, which is the age of majority in Illinois, they can take the money and do whatever they may wish with it. If Grandpa is leaving a \$100,000 account for his grandchild, the 18-year-old may think spending it on a fast car would be more important than spending it on higher education.

A better way would be to designate a trust to receive the IRA proceeds. While a trust may cost more on the front end, it can give Grandpa the piece of mind that his wishes will be fulfilled. He can choose who will be trustee, what type of distributions can be made from the trust and when distributions of principal will be made to the beneficiary, as well as when Junior will receive final distribution from the trust.

The trust can either be designed as a conduit trust, whereby all the income will be paid to or for the child's benefit until a certain age; or accumulate some of the income. If the income is accumulated, however, it will be subject to higher tax rates than if it is distributed to the child, who is probably at a lower rate.

A small cost for peace of mind.

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