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ISSUE 13 · INSIGHTS FOR FAMILIES

THE TIDES
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FROM THE SHORE *What you leave behind should find its way to the people you meant it for.*

ESTATE PLANNING

Do You Know Who Your *Beneficiaries Are?*

Want to avoid the expense of probate? Read on — one missing form can send a retirement account straight into court.

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OCTOBER SERIES · PART 4 OF 4

If you have not verified **in writing** who your beneficiaries are for each of your insurance policies, your retirement plans, and your 401(k), do so right away.

Call the company administrator and ask for a letter advising who your named beneficiaries are — **they will not tell you over the phone**. Is your trust also named as an additional insured on your homeowner's, earthquake, and umbrella insurance? These are the due-diligence items we review with every client.

AT A GLANCE

What this issue covers

01 **What happens with no beneficiary**
Default rules, probate, and court-supervised distribution.

02 **The complications**
Delays and costs, creditor claims, and higher taxes.

03 **How to avoid probate**
Name primary and contingent beneficiaries — and review them.

04 **Your due-diligence list**
Letters to request and policies to check this month.

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THE CALIFORNIA DEFAULT

No beneficiary named? Probate likely follows.

In California, if a person dies without naming a beneficiary for their 401(k) or other retirement account, the account will likely become part of their estate and go through the probate process.

WHAT WE ROUTINELY SEE

Blank lines, prior spouses, and people who have passed

Many client asset documents — life insurance policies, AD&D policies, pension death benefit plans, and 401(k) plans — have **no beneficiary designation**, or name a **prior spouse** or a **deceased individual**. It is shocking that these plans do not require one to be named at the time of policy issuance or when the plan is entered into.

01 Default beneficiary

Most 401(k) plans have default beneficiary rules that typically name the **spouse** as the first default beneficiary, followed by **children**, and then the **estate**.

SPOUSE · CHILDREN · ESTATE

02 Probate involvement

If the default beneficiary comes into play — meaning no specific individual was named — the 401(k) assets generally have to **go through probate** in order for the default beneficiary to take ownership.

COURT PROCESS

03 Estate distribution

The probate court will oversee the distribution of the 401(k) assets according to the decedent's will — or according to **California's intestacy laws** if there is no will.

WILL · INTESTACY

> *A will does not override a 401(k) beneficiary designation. The form you signed — or never signed — controls.*
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POTENTIAL COMPLICATIONS

What probate can cost your beneficiaries

TIME & MONEY

Delays and costs

Probate can be a lengthy and expensive process, adding costs and delays to settling the estate.

EXPOSURE

Creditor claims

If the 401(k) becomes part of the estate, it may be subject to creditor claims against the estate.

TAXES

Lost rollover

A rollover may not be possible if the account goes through probate, which can lead to **higher taxes** for the default beneficiary.

THE FIX

To avoid probate for a 401(k)

- [x] **Name a beneficiary.**
  Designate both **primary** and **contingent** beneficiaries for your 401(k).

- [x] **Review and update.**
  Periodically review and update your beneficiary designations, especially after major life events — the same events we covered in Part 1 of this series.

> *Name a beneficiary — then confirm it in writing. The administrator will not tell you over the phone.*
>
> TAMARA L. HARPER, J.D., AEP®

IMPORTANT NOTES

FEDERAL LAW

Your spouse comes first

If you are married, your spouse is generally the automatic beneficiary of your 401(k), unless they sign a waiver.

YOUR WILL

It does not override

A will does not override a 401(k) beneficiary designation.

YOUR ESTATE

Probate by design

If you name your estate as the beneficiary, the 401(k) will go through probate.

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THIS MONTH'S DUE DILIGENCE

Verify, in writing, before it matters

- **Request written confirmation.**
  For every life insurance policy, retirement plan, pension, and 401(k), ask the administrator for a letter naming your current beneficiaries.

- **Look for outdated names.**
  A prior spouse, a deceased individual, or a blank line all need to be corrected.

- **Check your property insurance.**
  Is your trust named as an additional insured on your homeowner's, earthquake, and umbrella insurance?

In summary, failing to name a beneficiary for your 401(k) in California increases the likelihood of the account going through probate — with delays, costs, and potential tax disadvantages for your beneficiaries. There are several other due-diligence items involved in managing your assets and your estate plan that should be discussed with an estate planning attorney.



THANK YOU FOR FOLLOWING THE SERIES

Who are your beneficiaries, really?

Use our free Self Check-Up to review every part of your plan, then let us help you confirm that each designation works with your will or trust.

FREE SELF CHECK-UP ↓

SCHEDULE A REVIEW →

CALL 805-409-0530 ↗

ESTATE PLANNING AWARENESS MONTH · SERIES COMPLETE

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This article is provided for general informational purposes and does not constitute legal advice. Tamara L. Harper is a proud member of the Conejo Valley Estate Planning Council and WealthCounsel, and holds the AEP® accreditation with the National Association of Estate Planners and Councils.