

October 2012

Dear Clients and Friends:

We can all learn a lesson from a recent case which came to my attention. I'll just make up the names. The background is that John bought an annuity from an insurance company, and he named his two children, Tom and Mary, as the equal beneficiaries.

Tom died before his father, leaving a child of his own we'll call Mark. Then John died, which triggered a payment of the annuity proceeds.

Mark thought he should receive his deceased father's share of the money. Indeed, John's living trust says that Tom's share of the estate will pass on to Mark if Tom is deceased. But proceeds from corporate and government retirement plans, annuities, life insurance and IRA's go to the designated beneficiaries under the controlling plan or insurance contract, and not according to a person's Will or trust.

In this case, the insurance company has determined if one beneficiary dies, the entire proceeds go to the remaining named beneficiary. So all the money will go to Mary.

This surely isn't what John intended. What he should have put down for the beneficiary is "equally to my children Tom and Mary, per stirpes." By simply adding those magic words "per stirpes," Tom's share would have gone on to his children, and Mark would have received half of the annuity proceeds.

Most of us don't want to disinherit the children of a deceased child. If you have any type of account, insurance product or retirement plan that names a beneficiary, this is a good time to review your records to be absolutely certain the designations are correct.

Regards,



Charles M. Shackelford