An Advanced Primer on Beneficiary Issues

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Agenda

- Who Can Be A Beneficiary?
- How Do You Designate A Beneficiary?
- What If No Beneficiary Is Designated?
- Case Studies
Who Can Be A Beneficiary?

- Natural Person
  - Spouse of the Participant (PPT)
  - Non-spouse
- Estate of the PPT
- Trust
  - Must only benefit natural persons

Note: Some defined benefit plans permit only a spouse to be a beneficiary (Benie)

How Do You Designate A Beneficiary?

- Plan’s beneficiary designation form (BDF)
  - “Old-school” paper form
  - On-line form
    - Extra steps for non-spouse Benie designation
- Spouse must consent to a non-spouse Benie designation
  - Requires Notary Public
What If No Beneficiary Is Designated?

- Plan’s default Benie designation rules apply
  - Plans may have different categories, but the spouse (if any) must be first
- Sample list
  - Spouse
  - Children (per stirpes or per capita?)
  - Parents (per stirpes or per capita?)
  - Siblings (per stirpes or per capita?)
  - Estate

Case Study #1

- Pat, a PPT, completes a BDF naming Debbie, his daughter, as his Benie
- Sally, his spouse, consents in the presence of a notary
- Pat tells Debbie to submit the BDF to the plan
- Pat dies
- Debbie submits the BDF 1 month later
- What do you do?
Case Study #2

- Pat, a PPT, elects a single life annuity form of benefit payment
- Sally, his spouse, consents in the presence of a notary
- The form is submitted to the plan
- On his death bed, Pat completes a new form with Sally as his joint annuitant
- Pat dies
- Sally submits the new form 1 month later
- What do you do?

Case Study #3

- Peter, a PPT, completes a BDF naming Dorothy, his daughter, as his Benie
  - Dorothy is Peter’s daughter from a prior marriage
- Salina, his spouse, consents in the presence of a notary
- Peter dies
- What do you do?
Case Study #4

- But what if...?
- Before Peter dies, Salina has a friend call the plan administrator (PA) to let the PA know that
  - Salina does not speak / read English
  - Did not understand what she was signing
- What do you do?

Case Study #5

- But what if...?
- Peter and Salina execute a new BDF in the presence of a new notary, again naming Dorothy at Peter’s beneficiary
- Peter dies
- Salina submits an application for death benefits
- Dorothy submits an application for death benefits (with the new BDF)
- What do you do?
Case Study #6

- But what if...?
- Before the plan begins paying the death benefits to Dorothy
  - Larry, Salina’s lawyer, sends a letter to the PA asserting that Salina’s signature was obtained through fraud
- What do you do?

Case Study #7

- But what if...?
- After the plan begins paying the death benefits to Salina (because of Larry’s letter), Dorothy sends the PA documents confirming that
  - Salina executed the 2\textsuperscript{nd} BDF in the presence of a notary who speaks Spanish
  - Salina executed a separate form in Spanish that explained the BDF and what it did
  - Salina executed a contract with Dorothy in Spanish that discussed the death benefit
- What do you do?
Case Study #8

But what if...?

Larry sends a new letter asserting that
- Dorothy threatened to call INS to have Salina deported if she did not sign the documents
- Salina executed those documents under duress
- Salina’s consent is invalid because it was not given knowingly and voluntarily

What do you do?

Case Study #9

But what if...?

Adele, Peter’s first wife and mother of Dorothy, submits a posthumous QDRO

What do you do?
Case Study #10

- Penelope, a PPT, designates her spouse, Stephen, as her beneficiary
- Penelope and Stephen get divorced
- Penelope does not update her BDF
- Penelope dies
- What do you do?

Case Study #11

- Penny, a PPT, designates her friend, Fred, as her Benie on a BDF in 2010
- Penny marries Wilma in Connecticut in 2011
- Penny dies in 2014
- Fred and Wilma both submit claims for Penny’s death benefit
- What do you do?
Case Study #12

- Paul, a PPT, designates his friend, Francine, as his Benie on a BDF in 2005
- Paul marries Hank in Massachusetts in 2006
- Paul dies in December 2012
- The plan pays the death benefit to Francine in April 2013
- Hank makes a claim for the death benefit in August 2013
- What do you do?

Case Study #13

- Paige, a PPT, marries Wanda in Massachusetts in 2004
- Paige elects to receive a single life annuity in 2009 because that is the only option offered to her as an “unmarried” PPT
- Paige dies in December 2012
- Wanda makes a claim for the survivor portion of a QJSA in August 2013
- What do you do?
Case Study #14

- Pedro, a PPT, submits a BDF to the PA with the Pedro Family Revocable Trust (Trust) as his primary beneficiary
- What do you do?

Case Study #15

- Pedro dies
- The trustee of the Trust submits a claim for benefits
- The Benies of the Trust are
  - Pedro’s children
  - The Pedro Memorial Scholarship Fund for McNeese State University
- What do you do?
- What if a Trust Benie were the ASPCA?
Case Study #16

- Parker, a PPT, submits a BDF to the PA naming the following as his Benies
  - Felicia (his sister)
  - The Parker Family Revocable Trust (Trust)
- Unfortunately, Parker filled out the “contingent” Benie portion of the BDF
- What do you do?

Case Study #17

- Suppose Felicia is
  - The trustee of the Trust
  - The only Benie of the Trust
  - Parker’s only living relative
- What do you do?
Case Study #18

- Peyton, an unmarried PPT, submits a BDF with the following in the primary Bene portion
  - Ginger (girlfriend) 67%
  - Fernando (friend) 34%

- No one notices the math error
- Peyton dies
- What do you do?

Case Study #19

- Pamela, a PPT, dies without completing or submitting a BDF
- Pamela is survived by her
  - 2 Parents
  - 5 Brothers
  - 7 Children
  - 16 Grandchildren

- Who are the proper Benies?
Case Study #20

- What if the parents of 4 of the grandchildren predeceased Pamela?
- What if one of Pamela’s children were adopted?
- What if one of Pamela’s children were a step-child?

Questions???
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