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Old beneficiary form leads to unexpected inheritance

An outdated beneficiary form from a decades-old relationship has sparked a nearly 10-year legal battle over a $1 million retirement account. The case highlights the importance of keeping beneficiary designations current, especially as retirement savings grow for many Americans.

Shocking discovery

Jeffrey Rolison died in 2015, at age 59, just a few months before his planned retirement from Proctor & Gamble.

At the time of his death, his company retirement account was worth over $750,000. To the shock of his family, however, the sole beneficiary listed on the account was Margaret Sjostedt, a woman Rolison lived with in the 1980s.

Rolison had filled out a handwritten beneficiary form in 1987 naming Sjostedt (now Losinger), but never updated it, even though their relationship ended roughly two years later.

Legal battle and court ruling

Rolison's brothers have engaged in a lengthy legal battle to try to redirect the funds to Rolison's estate. However, under federal law, employers are generally required to pay out retirement accounts to the last recorded beneficiary, regardless of how outdated that designation may be.

In April 2024, the court granted summary judgement for P&G and Losinger, denying claims that P&G breached its fiduciary duty.

Specifically, the court found that P&G had adequately informed Rolison about how to change his beneficiary designation multiple times over the years.

Despite logging into his online account and seeing that he had not designated an online beneficiary, Rolison took no action to change the old paper designation.

Reporting from the Wall Street Journal indicates the retirement account was valued at $1.15 million in 2020, growing over the course of the dispute. Funds continue to remain in escrow as the Rolinson estate has appealed the April 2024 decision.

Lessons and recommendations

The case serves as a stark reminder of the importance of regularly reviewing and updating beneficiary designations on all financial accounts, including:

- Retirement accounts (401ks, IRAs, etc.)
- Life insurance policies

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Estate of Tony Bennett embroiled in family dispute

Tony Bennett, an iconic American singer, passed away in July 2023 at the age of 96. Bennett left behind not only a rich musical legacy but what appears to be a contentious estate battle. The crooner's daughters, Antonia and Johanna Bennett, have filed a lawsuit against their brother, Danny Bennett, who serves as the trustee of their father's estate.

The core of the conflict

Antonia and Johanna allege that Danny, who was also Tony's longtime manager, has failed to properly account for the assets and transactions of the family trust. The sisters claim that while Tony's earnings from live performances alone exceeded $100 million in the last 15 years of his career, they were informed that the gross estate was valued at less than $7 million.

The sisters allege that Danny received personal benefits for himself and his company from transactions executed on behalf of Tony, Benedetto Arts, LLC, and the family trust. The sisters claim they have not received sufficient information to understand the property and assets to which they are entitled as beneficiaries.

Addressing potential trustee malfeasance

If you find yourself in a similar situation, and you believe a trustee may not be fulfilling their fiduciary duties, here are some steps you can take:

• **Request a formal accounting.** Beneficiaries have the right to request a detailed accounting of the trust's assets, income and expenditures. That should be your first step in understanding the trust's financial situation.

• **Seek legal counsel.** Consult with an attorney who specializes in trusts and estates. They can help you understand your rights as a beneficiary and guide you through the legal process.

• **Demand transparency.** If the trustee is not forthcoming with information, your lawyer can formally request all relevant documents and records related to the trust's management.

• **Petition for removal.** If you have evidence of misconduct or mismanagement, you can petition the court to remove the trustee and appoint a new one. That is a serious step that should be taken only with strong evidence and legal guidance.

• **File a lawsuit.** As a last resort, you may need to file a lawsuit, as the Bennett sisters have done. That can compel the trustee to provide a full accounting and potentially face legal consequences for any breaches of fiduciary duty.

• **Propose an independent trustee.** In cases of family discord, suggesting the appointment of an independent trustee (either a professional fiduciary or a corporate trustee) can help ensure impartial management of the trust.

The Bennett estate battle underscores the complexities that can arise in managing substantial estates. It serves as a cautionary tale about the importance of clear communication, transparent management, and proper accounting in preserving not just a financial legacy, but family harmony as well.

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FinCEN updates FAQs on trusts and Corporate Transparency Act

In April, the Financial Crimes Enforcement Network released updated guidance addressing trusts and the Corporate Transparency Act. This update provides crucial clarification on how trusts interact with the CTA's beneficial ownership reporting requirements.

The Corporate Transparency Act was enacted in 2021 as part of a broader effort to combat money laundering, tax evasion, and other financial crimes. It requires certain entities, known as "reporting companies," to disclose information about their beneficial owners to the Financial Crimes Enforcement Network, or FinCEN.

The CTA aims to prevent the use of anonymous shell companies for illicit activities by creating a database of beneficial ownership information.

Key points from the updated FAQs include:

• *Trust classification*: Trusts created by filing documents with a secretary of state or similar office may be considered reporting companies under the CTA. However, most trusts formed by private agreement are not reporting companies.

• *Beneficial ownership through trusts*: Individuals can be beneficial owners of reporting companies through trust arrangements, either by exercising substantial control or owning/controlling at least 25 percent of the company's ownership interests.

• *Identifying beneficial owners*: Trustees, certain beneficiaries, grantors, and settlors may be considered beneficial owners depending on their level of control or ownership rights within the trust structure.

• *Corporate trustees*: Special considerations apply when reporting companies have corporate trustees. In some cases, individual beneficial owners of the corporate trustee may need to be reported.

The updated guidance emphasizes the importance of carefully analyzing trust structures to determine reporting obligations under the CTA. Failure to comply with reporting requirements can result in significant civil and criminal penalties.

Given the complexity of these rules, trustees, business owners, and individuals with trust arrangements are advised to consult with their estate planning attorney to review the updated FAQs and assess their specific compliance obligations under the CTA.

Supreme Court ruling reshapes estate planning for closely held businesses

On June 6, 2024, the U.S. Supreme Court issued a decision in *Connelly v. United States* that significantly impacts estate planning for closely held businesses. The ruling has implications for business owners with life insurance-funded buy-sell agreements and other insurance-funded contingency plans.

Background

Brothers Michael and Thomas Connelly owned Crown C Supply, a building supply company in St. Louis. As part of their estate planning strategy, they established a buy-sell agreement to keep the business in the family upon either brother's death. To fund the arrangement, the company purchased $3.5 million of life insurance on each brother.

In 2013, Michael passed away. Thomas chose not to exercise his right to purchase Michael's shares, which triggered Crown's obligation to redeem the shares under their agreement. Crown received the $3.5 million life insurance payout and used $3 million to redeem Michael's shares, with the remaining $500,000 used for company operations.

The arrangement led to a tax dispute that reached the Supreme Court. The core issue: Should the $3 million insurance proceeds be included in Crown's valuation for estate tax purposes, even though it was used to redeem Michael's shares?

Decision

The court ruled that a company's contractual obligation to redeem a deceased shareholder's shares does not offset the increased value from life insurance proceeds for estate tax purposes.

Life insurance proceeds paid to a company must now be included in the company's value when calculating estate taxes, even if those proceeds are earmarked for share redemption.

The decision overturns previous circuit court rulings that had allowed the offsetting of insurance proceeds against redemption obligations.

Implications

The *Connelly* decision reshapes life insurance-funded planning strategies for closely held companies:

- *Increased estate tax liability*: Business owners may face higher estate tax bills if their companies hold life insurance policies intended for share redemptions.
- *Need for restructuring*: Existing buy-sell agreements and life insurance arrangements may need to be revised to avoid adverse tax consequences.
- *Alternative strategies*: The court suggested that alternative structures, such as cross-purchase agreements, could lead to more favorable tax outcomes. (In a cross-purchase agreement, the surviving shareholders personally buy the deceased shareholder's shares, often using proceeds from life insurance policies they own on each other.)

Recommended next steps

Business owners with existing buy-sell agreements, particularly those funded by life insurance, should consult with their attorney to assess the potential impact of the *Connelly* decision. An attorney can help you explore options to protect the business and intended ownership transition while minimizing tax liabilities for heirs.

Outdated beneficiary form leads to unexpected inheritance

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- Bank accounts
- Investment accounts

Estate planning attorneys recommend reviewing these designations annually and after any major life events, such as:

- Marriage or divorce
- Birth or adoption of children
- Death of a previously named beneficiary
- Significant changes in financial circumstances

Beneficiary forms often trump even a well-crafted will, making it crucial to ensure they reflect your current wishes. To avoid unintended consequences like those in the Rolison case, take the time to review your beneficiary designations regularly.

Contact your employers, financial institutions, and insurance providers to confirm your current designations and make any necessary updates. That simple step can save your loved ones significant stress and potential legal battles in the future.

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SCOTUS decision leaves wealth tax question unresolved

Tax advisors and estate planners have been watching the U.S. Supreme Court's recent ruling in *Moore v. United States*, a case involving taxes on offshore profits. While the court upheld a specific Trump-era tax provision, it sidestepped the broader question of taxing unrealized gains — leaving a small legal window open for future wealth taxes.

In 2005, Charles and Kathleen Moore invested $40,000 in KisanKraft, an Indian company supplying tools to small farmers, receiving 11 percent of its shares. The company was consistently profitable but reinvested earnings instead of paying dividends.

Before the 2017 Tax Cuts and Jobs Act, or TCJA, taxes on foreign business earnings could be deferred until the income was brought back to the U.S. The TCJA changed that, imposing taxes on unrepatriated income.

Under the new law, KisanKraft's accumulated foreign income of about $508,000 was treated as 2017 income, resulting in the Moores owing an additional $14,729 in taxes on their share. The Moores paid the tax but then sued the government to recover the amount, arguing that the tax was unconstitutional as it imposed a direct tax on unrealized gains.

The court's majority opinion, authored by Justice Brett Kavanaugh, held that the income had been realized by KisanKraft and that Congress has the authority to tax shareholders or partners on undistributed business income.

As such, the court avoided a blanket ruling on taxing unrealized gains. While this leaves a small opening for wealth tax proposals, significant challenges remain. Notably, four justices indicated that they view realization as a constitutional requirement for income taxes.

Democrats have proposed various forms of taxes on unrealized gains for the ultra-wealthy. The court's decision doesn't definitively rule out wealth taxes, but it suggests that passing and implementing such taxes would be challenging without further legal clarification.