

## The Impact of Beneficiary Designations

All IRAs and annuities dictate that a beneficiary is named to receive the assets at the death of the owner/annuitant. When the beneficiary is a natural person, not an “estate,” the beneficiary will receive the assets without any probate action.

When determining the beneficiary and contingent beneficiary of an annuity or IRA contract it is always best to do so in a manner that will result in the greatest amount of flexibility regarding payouts and the least amount of negative tax consequences.

### Spousal Continuation

For Jan and Al, in a typical situation with a husband-and-wife annuity or IRA, the spousal continuation rule applies when the spouse is named as the sole primary beneficiary. Contingent beneficiaries should be named, too. But the contingent beneficiary only has a role if the primary beneficiary dies before the annuity/IRA owner. The Spousal Continuation Rule (IRC 72(s)) states that if Al dies, Jane has the option of becoming the contract owner and can then continue the contract throughout her life and is therefore not forced to take an unnecessary distribution. (Note that not all insurance companies may offer this spousal continuation provision.) If anyone else is named as a primary beneficiary along with the spouse, the option for spousal continuation of the contract is lost.

Assuming that a surviving spouse continues the annuity/IRA as their own, the remaining spouse will need to name new primary and contingent beneficiaries.

### Spouse as primary beneficiary, not trust

Many people designate trusts as the beneficiary of an annuity or IRA. Usually there is no need to do this because annuities pass probate free, unless the estate is the beneficiary. Also, trusts do not allow for any form of spousal continuation or lifetime income options because they are a non-natural person. Trusts should be used when the named beneficiaries are minor children, special needs children or there is a complicated family situation. If you are naming a trust as a beneficiary, an attorney should be consulted and a written letter of instructions on exactly how the beneficiary designation is to be structured should be obtained from the attorney.

### Income for Life

If Al structured his primary and contingent beneficiaries properly, the beneficiaries - probably his wife then their children - will have the opportunity to use the income over their lifetime. Legacy annuities or stretch annuities are very advantageous because Jane and the children won't be burdened with paying a huge tax bill on annuity/IRA gains.

Call your Western Fraternal Agent today and set up an appointment to review your beneficiary designations.

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*Disclaimer: The contents of the article are believed to be accurate, but are subject to interpretation. We do not offer tax or legal advice. Please consult your own tax and legal authorities for specifics regarding your situation.*

