INSIGHTS

A QUARTERLY WEALTH MANAGEMENT PUBLICATION *of* FERGUSON WELLMAN, OCTAVIA GROUP *and* WEST BEARING

WEALTH MANAGEMENT
SECOND QUARTER 2024

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Founded in 1975, Ferguson Wellman is a privately owned registered investment adviser, established in the Pacific Northwest. As of January 1, 2024, the firm manages more than $8.4 billion for more than 990 clients that include individuals and families; Taft-Hartley and corporate retirement plans; and foundations and endowments with portfolios of $4 million or more.

West Bearing Investments, a division of Ferguson Wellman, serves clients with assets starting at $1 million.

Octavia Group, Ferguson Wellman's private family office, provides fee-based services for clients with $10 million managed by our firm.

INVESTMENT EXCELLENCE
LIFELONG RELATIONSHIPS

PLANNING FOR OUR CHILDREN'S FUTURE

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OFTEN, THE MOST IMPORTANT LEGACY GOAL of parents revolves around supporting and safeguarding their children's futures, particularly during their formative years. This encompasses a broad spectrum of considerations, from appointing trusted legal guardians to ensuring they can afford an education and inherit valuable assets such as investments, real estate and more.

A crucial aspect to understand when planning a legacy is the distribution of assets, especially to minor children. Legally, minors are prohibited from owning or inheriting assets outright. Instead, they require a representative—such as a trustee or custodian—to manage these assets on their behalf until they reach adulthood. This legal nuance becomes particularly intricate when minors are designated as beneficiaries on retirement accounts like IRAs or employer-sponsored plans.

Without explicit instructions, naming a minor as a beneficiary may necessitate court intervention to appoint a conservator or guardian. This process, often cumbersome and costly, can disrupt the timely and intended transfer of assets.

To avoid such potential complications, many parents choose to name a trust or an individual as a custodian under state law to receive and manage assets for the beneficiary until they are an adult. The age at which this transfer occurs differs by state but is commonly 18-to-21 years old. This method streamlines the transition and mitigates the risk of court intervention, providing a simpler pathway for asset transfer to minors.

For those seeking greater control over the inheritance—be it restricting fund usage or extending management beyond the age of majority—a trust can be an effective solution. By creating a trust and naming it as the beneficiary, with the minor as the trust's beneficiary, parents can dictate the terms of fund disbursement and provide greater and longer protection of those assets.

However, it's important to note the higher costs and complexities associated with trusts. They require the help of an attorney to properly plan for and create it, a trustee to oversee and manage the trust, and they have ongoing administrative needs and expenses. Furthermore, when a trust inherits a retirement account, there are intricate tax rules to contend with to prevent unintended tax consequences. Typically, trusts are employed only when the benefits outweigh the complexities.

Given the nuances involved in naming minor children as beneficiaries of accounts, professional advice is crucial and we recommend you work directly with your attorney and portfolio manager to appropriately structure and document.

Our Ferguson Wellman logo is based on a bronze coin of Marcus Aurelius Antoninus, emperor of Rome from A.D. 161 to 180. According to historian Edward Gibbon, he was the only person in history in which, "the happiness of a great people was the sole object of government." Marcus Aurelius was the author of a series of personal writings and meditations that revealed a mind of great humanity, natural humility and wisdom.

PLANNING FOR AN ALTERNATE SCENARIO

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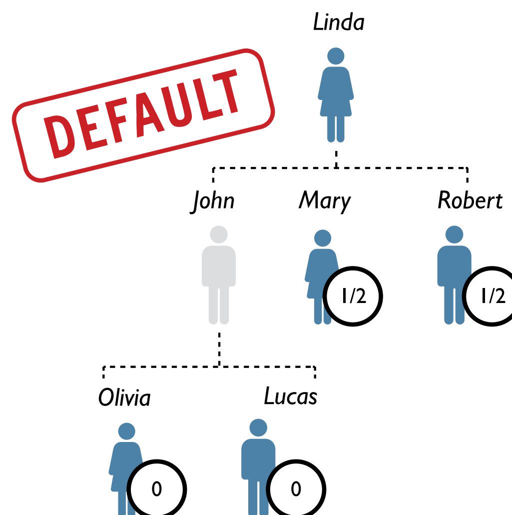
ONE OF THE MOST PREVALENT AREAS where an estate plan can fall through the cracks is when a beneficiary designation misaligns with the rest of one's estate plan. As such, having beneficiaries set ahead of time and in conjunction with the rest of your plan is an important first step to avoiding this common pitfall. Beyond that, factoring in what might happen if one of the primary named beneficiaries is not available to inherit assets is a prudent second step.

Just like your living will or trust will likely have contingencies factored in, including a contingent beneficiary should be considered for beneficiary designated accounts such as an IRA, 401k or life insurance policy. On the surface, naming a contingent beneficiary may appear to be a straightforward election. However, doing so can also bring complexities depending on what elections are made. This stems from what is or isn't selected on the beneficiary designation forms, the critical piece of documentation that directs who inherited the assets, which are on file with the custodian.

If no further election is made on the beneficiary designation form, the custodian will typically apply a default distribution setting. If there are multiple primary named beneficiaries, it's important to be aware of this default setting, its impact and how it directs the distribution of assets to heirs, and at times, creates unintended consequences. Frequently known as "per capita" (by children), this default setting will effectively remove a branch of the family tree if one of the named primary beneficiaries has died and the beneficiary designation is not updated. The remaining primary beneficiary (or beneficiaries) inherit the assets as depicted in the accompanying graphic. If this default election is in force and the beneficiary designation is not updated, the children of the deceased primary beneficiary will not inherit in their stead, which may be unintentional and damaging for the family. Each custodian will have its own default rules, so it is critical for an owner to be aware of the impact of such rules with each custodian with whom they hold assets.



This is the default for Charles Schwab, please check with your custodian. *Image Source: Ferguson Wellman*

The laurel is part of our Octavia Group branding. Octavia the Younger was one of the most prominent women in Roman history. She was respected for her nobility and humility. Octavia was hailed as a "marvel of womanhood" and was a political advisor between her brother and husband. She was immune from the "tutela," which placed in her the unique position of managing her own finances.

A common estate planning goal is to distribute assets to all branches of the family. To accomplish this, a bit of contingency planning is needed. This can be done through an election on the beneficiary designation form. The options generally fall under the two categories: "per stirpes" and "per capita" (by heir). Each option is unique, but in both cases, they ensure assets pass to an heir's next generation should one of the named primary beneficiaries be deceased.

Per stirpes

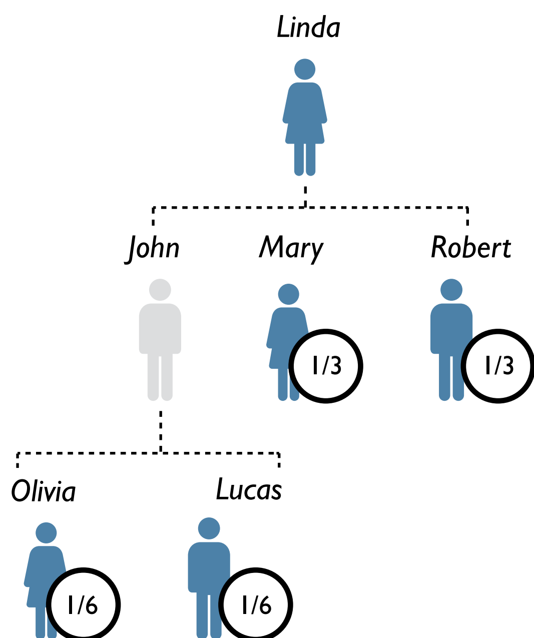


Image Source: Ferguson Wellman

In the case of a per stirpes designation election, the most common of the two options, the heirs would receive a distribution of assets by family lineage. The heirs down the family branch would receive a distribution based on the share of the deceased primary beneficiary.

A per capita (by heir) election is a less common beneficiary option providing for the heirs of a deceased primary beneficiary. Like per stirpes, heirs further down the family line are included in the distribution. However, the key difference is in how the share received by the heirs is calculated. In the case of per

Per capita
(by heir)

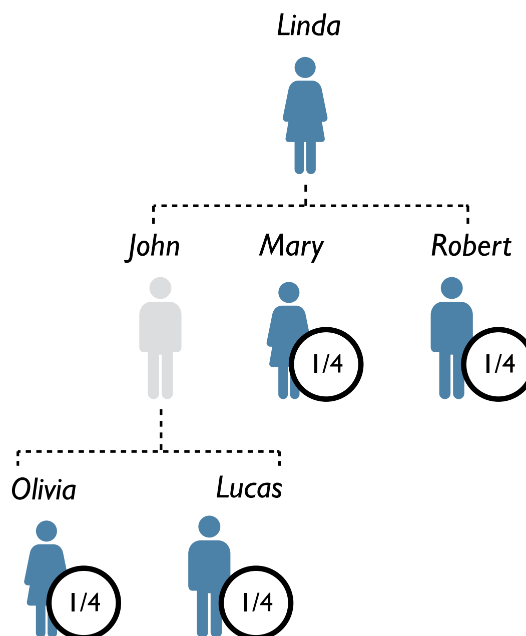


Image Source: Ferguson Wellman

capita (by heir), all beneficiaries get a proportional amount based on the total number of living beneficiaries. This is contrary to the per stirpes election where the deceased primary beneficiary share is divided among their heirs.

Each asset controlled by a beneficiary designation will have its own beneficiary designation forms, and the respective custodian will keep this record on file for each account. If you have multiple accounts that have their own respective beneficiary designations, it is advisable to keep a record of these with your estate planning documents.

When you pass away, a beneficiary designation becomes the guiding document to distribute those specific assets to heirs. Making certain that these critical designation forms are in line with the rest of your estate plan, are up to date and reflect your wishes is key. Though never a pleasant topic to consider, putting in place estate planning contingencies is an important part of planning for an alternate scenario. Understanding the key elections made in a beneficiary designation can help prevent an unintentional distribution (or lack thereof) to your heirs.

Our West Bearing logo is inspired by the American bison, an iconic creature symbolizing resilience, grace and the western path to growth and opportunity. Most animals attempt to outrun inclement weather, prolonging their exposure to the elements and, in doing so, weaken their conditions. Only bison instinctively turn to face the storm, often bearing west, to find the quickest path to clear skies.

ENSURING CONTINUITY IN 529 PLANS

CHARISSA ANDERSON, CFP®, CDFA®
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A 529 ACCOUNT IS A TAX-ADVANTAGED savings plan that allows you to save for future education expenses. You can choose from various investment options and enjoy tax-free growth and withdrawals for qualified education costs.

All 529 plans have an account owner and a beneficiary. The beneficiary is the student for whom the funds will be used in the future. The account owner is the adult who opens the account and is often a parent or grandparent. Although funding a 529 account is considered a completed gift to the beneficiary, the account owner, not the beneficiary, maintains control over the account. This includes the ability to determine how the assets are invested, take distributions and change the beneficiary to another family member.

Just as it is important to have named beneficiaries on your financial accounts, it is also important to name a successor owner for your 529 plans. If a 529 account owner passes without a named successor, the state's 529 plan rules will determine who becomes the new account owner. The account may be subject to probate and will generally pass according to the original owner's will, or through the state's intestacy laws if there is no will. In many cases, if the beneficiary is 18 years or older, they will become the new 529 account owner, giving them full control over the assets.

Conversely, naming a successor owner avoids probate and allows for a seamless transition of the account. The successor owner can step into the management of the 529 account in the event of the original account owner's death or incapacity, without delay. The new owner assumes the same rights as the original owner, including the ability to take a distribution of the full account balance (subject to taxes and penalties) and the right to change the beneficiary. For this reason, the account owner should select a successor they fully trust to follow their intentions.

If the account owner does not feel comfortable passing ownership to another individual, or they would like more control over how the 529 account is used, naming a trust may be beneficial. The terms of the trust can outline how the funds were intended to be used. For example, the trust language could state the funds are only to be used on higher education costs, and not to be used for personal expenses. If a trust is named, it is important the owner works with their estate planning attorney to ensure the necessary provisions are included in the trust document.

"An investment in knowledge always pays the highest returns."
- Benjamin Franklin"

Tax Considerations

Contributions to 529 plans are considered gifts for tax purposes. In 2024, you can give up to $18,000 per recipient without triggering gift tax. The funds contributed to a 529 plan are also removed from the donor's estate, making them attractive estate planning tools. Because of this, upon the death of the owner, the value of the 529 account is generally not included in his or her estate. Rather, the value of the account is included in the beneficiary's estate. There is an exception, however, if the account was "super-funded."

"Super-funding" a 529 plan allows you to contribute five years' worth of "annual gifts" into a 529 plan in a single year without gift-tax consequences. Individuals, such as parents or grandparents, can contribute up to $90,000 and treat the contribution as if it were made over five consecutive years. If this five-year election was made, and the donor died before the five-year period ended, a prorated portion of the contribution is included in the donor's estate.

Due to its many benefits, 529 plans are often the best choice for education savings. Having a successor owner named on the account can bring peace of mind that the 529 account will continue to be managed as you intended. If you have questions about education funding plans or successor owner considerations, contact your portfolio manager.

Disclosures: *Ferguson Wellman and West Bearing do not provide tax, legal, insurance or medical advice. This material has been prepared for general educational purposes only and not as a substitute for qualified counsel who can determine how this information applies to you.*