



## NEWS RELEASE

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### Is Your Ex Going to Inherit Your 401(k) Plan Account? Are You Sure?

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*Thomson Reuters tax analyst discusses importance of beneficiary information*

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**NEW YORK, Oct. 28, 2011**—There have been tragic stories about people forgetting to update their retirement plan or life insurance beneficiaries after a life-changing event. It is not uncommon for retirement plan assets to go to the ex-spouse instead of the current spouse, noted Kim Saunders, a tax analyst for Thomson Reuters. There are a few simple steps that retirement plan participants can take to make sure they aren't part of this story.

"Most of us in the U.S. are on the go from early in the morning until well into the evening—six or seven days a week," said Saunders. "It's no surprise that we may let some important things slide. We know we need to get to them, but it seems like they can just as easily wait until tomorrow or the next day or whenever."

A recent U.S. Supreme Court decision reminds us that "whenever" might never arrive and the results can sometimes be tragic, noted Saunders. The case involved a \$400,000 employer-sponsored retirement account, owned by William, who had named Liv as his beneficiary back in 1974, shortly after they married. The couple divorced 20 years later in 1994. As part of the divorce decree, Liv waived her rights to benefits under William's employer-sponsored retirement plans. However, William never got around to changing his beneficiary designation form with his employer.

When William died in 2001, Liv was still listed as his beneficiary; therefore the plan paid the \$400,000 to Liv. William's estate sued the plan, saying that because of Liv's waiver in the divorce decree, the funds should have been paid to the estate. The Court disagreed, ruling that the plan documents (which called for the beneficiary to be designated and changed in a specific way) trumped the divorce decree. William's designation of Liv as his beneficiary was handled in the way the plan required, Liv's waiver was not. Therefore, the plan rightfully paid the \$400,000 to Liv.

The tragic outcome of this case was largely controlled by its unique facts. If the facts had been slightly different (such as the plan allowing a beneficiary to be designated on a document other than the plan's beneficiary form), the outcome could have been quite different. However, it still would have taken a lot of effort and expense to get there.

This leads to a couple of important take away points. "The first is that if a plan participant wants to change the beneficiary for a life insurance policy, retirement plan, IRA, or other benefit, he or she needs to use the plan's official beneficiary form rather than depending on an indirect method such as a will or divorce decree," said Saunders. "The second point is that it is important to keep beneficiary designations up-to-date. Whether it is because of divorce or another life-changing event, beneficiary designations made years ago can easily become outdated."

Taxpayers should consult with a personal tax advisor before applying these or other tax strategies.

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