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Money Management

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Understanding Life Insurance Beneficiary Designations

In the language of life insurance, a **beneficiary** is the recipient of the benefits of a policy when the named insured dies. The owner of a life insurance policy has a great deal of flexibility in naming beneficiaries and can generally name anyone he or she chooses. When making beneficiary decisions, it is important to ensure that the wishes of the policyowner are fulfilled and that legal complications are avoided.

Types of Beneficiaries

Beneficiaries are typically categorized as either **primary** or **contingent**. A *primary* beneficiary is entitled to the benefits of the policy upon the death of the insured, but such rights expire if he or she dies before the insured. A *contingent* (or secondary) beneficiary is entitled to the policy benefits if the primary beneficiary has predeceased the insured. One fairly common arrangement might stipulate that, if a primary beneficiary dies before collecting the benefits of the policy, then the amount would be payable to the

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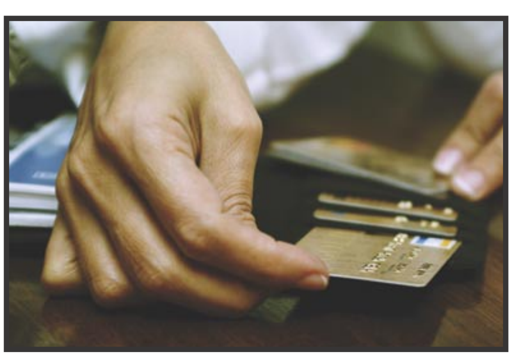
Review Your Credit Report for ID Theft Protection



Identity theft is a serious crime against the American consumer, with as many as nine million individuals affected annually, according to 2009 statistics from the Federal Trade Commission (FTC). As part of a protection strategy, FTC and other consumer credit organizations suggest a proactive approach to safeguarding your identity: monitoring your **credit report**.

Your credit report is an accumulation of information about your bills and loans, your repayment history, your available credit, and your outstanding debts. These reports are typically used by lenders when deciding whether or not to accept a loan or credit application. In terms of identity theft, your credit report can alert you to accounts that have been fraudulently opened in your name, unauthorized charges made to your existing accounts, and other crimes committed by someone using your personal information.

According to the **Fair Credit Reporting Act (FCRA)**, you can request a free copy of your credit report from each of the three major credit bureaus

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Can a Living Trust Replace Your Will?

When planning your estate, you may choose to set up a **revocable living trust**. A properly managed revocable living trust can provide unique benefits; however, it does not completely replace a **will**. In determining whether this type of trust is right for you, it helps to understand the major purpose, benefits, and tradeoffs of this estate planning tool.

A revocable living trust is created during your lifetime, and you can alter it in any way and at any time. One of its key features is that it allows you to retain control of the management and distribution of your assets.

The Probate Issue

Many people establish a revocable living trust to avoid **probate**, which is the legal process of settling your estate. Assets distributed from a trust upon your death *do* avoid probate. However, the probate process itself is not as burdensome for many estates as in the past.

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Review Your Credit Report for ID Theft Protection

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(Equifax, Experian, and TransUnion) once a year. For your convenience, you can access all three agencies through a single website, www.annualcreditreport.com. The FTC suggests that you order all three reports, even if you choose to stagger your report requests throughout the calendar year, as the information may differ from each bureau. This is because credit reporting is done on a voluntary basis. Consequently, creditors may subscribe and report information to just one agency, or all three.

Once you have a copy of your credit report, it is important to understand its layout and the information you will find in each section. Typically, a credit report is divided into four major sections: identifying information, credit history, public records, and inquiries.

The **identifying information** on your report will include your name, current (and previous) address, Social Security number, driver's license number, telephone number, birth date, current and previous employers, and your spouse's name, if applicable.

The **credit history** section details your payment history with banks, retail stores, finance companies, mortgage companies, and others who have given you credit. Each account, sometimes called a trade line, will appear with the following information: name of creditor, account number, type of credit (i.e., installment loan or revolving credit), account participation (e.g., joint owner, individual account, or authorized user), date opened, last activity (date of last payment or charge), high credit (the credit limit or original loan amount), terms (number of installments or amount of monthly payments), balance at the time of reporting, past due balance at the time of reporting, status of the account (open, closed, inactive, etc.), and date of last report. It is in this section that accounts opened or affected by identity thieves may become apparent.

The **public records** section includes documents that reflect your history of meeting financial obligations, such as bankruptcies, collection accounts, judgments, and tax liens. Since public records can have a serious, negative effect on your credit, ensure that the information belongs to you, not someone who falsely used your personal information.

Finally, the **inquiry** section lists all the businesses that have received your credit report during the last 24 months. Inquiries are categorized as hard or soft. Hard inquires are those you initiate by filing a credit or loan application. Soft inquiries often come from marketers who want to sell you something. If you don't recognize a listed business, be sure to find out the nature of the business and why they are looking at your credit report.

If you find a mistake on your credit report, it is important to contact the credit bureau that issued the report using the form provided or by following the instructions given by that particular agency. If the error is serious, and you suspect that your identity has been stolen, contact the FTC's Identity Theft Hotline at 1-877-IDTHEFT (877-438-4338). Be sure to keep detailed documentation of all communications with creditors, agencies, and the FTC.

For more information about identity theft, visit the FTC's website at www.ftc.gov. *MM*

Understanding Life Insurance Beneficiary Designations

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contingent beneficiary. It may be necessary to have several contingent beneficiaries.

A beneficiary can be either **specific** (a person identified by name and relationship) or a **class designation** (a group of individuals such as "children of the insured"). While the naming of specific beneficiaries is usually clear, unintended complications can arise when designating *classes* of beneficiaries.

For example, if you plan to name your children as beneficiaries, you must clarify if you intend to include adopted children or children by a former spouse. If your children are minors, it is important to determine if the insurance company will pay the benefits to a minor beneficiary. Generally, insurers pay benefits to a legal guardian rather than to a minor.

Consider the following situation in which the policyowner's intentions appear straightforward, but could become complicated. Harriet, who is seventy years old, has planned for the benefits of her life insurance policy to be paid to her children (Sam, Carole, and Jill) or her grandchildren. Now, suppose Sam and Carole die before their mother. Sam leaves four children and Carole has no children. How will the proceeds of the policy be distributed when Harriet dies?

Methods of Distribution

Per stirpes and **per capita** are terms that describe methods of distributing property to family members and heirs. Per stirpes means "branches of the family," and per capita means "by heads." In the example above, under a *per stirpes* distribution, Jill (one branch) would receive one-half of the proceeds and Sam's surviving children (the other branch) would divide the remaining half among themselves. Under a *per capita* distribution, Sam's four children, along with Jill, would each receive one-fifth of the proceeds. Remember, if any of Sam's children are still minors when Harriet dies and legal guardians have not been appointed, there may be complications.

Revocable vs. Irrevocable

Consequences may also vary according to whether beneficiary designations are revocable or irrevocable.

If a beneficiary designation is **revocable**, the policyowner reserves the right to change the beneficiary. A person designated as a revocable beneficiary has only an "expectation" of benefits, since the owner of the policy can exercise any of the policy rights without the consent of the revocable beneficiary.

On the other hand, an **irrevocable** beneficiary designation cannot be changed without the consent of that beneficiary. While this arrangement is sometimes desirable for estate planning purposes, the legal status of an irrevocable beneficiary is uncertain. Some may regard an irrevocable beneficiary as a "co-owner" of the policy; therefore, the beneficiary's consent is needed to exercise any policy rights. On the other hand, others may contend that an irrevocable beneficiary's consent is needed only for exercising a change of beneficiary.

The latter position can create the somewhat puzzling situation of compromising the beneficiary's rights if the policyowner exercises other rights, such as surrendering the policy or permitting it to lapse. Due to the vague legal status of an irrevocable designation, it is usually preferable to use revocable beneficiary designations.

A further complication can arise when one's estate is named as a beneficiary of a life insurance policy. The policy benefits may be tied up in the probate process or reduced by the claims of creditors.

The distribution desired by the policyowner must be clearly set forth in the beneficiary designation. A change in family circumstances after a policy is initially written, such as a divorce, could leave unintended beneficiaries, so it is important to review your insurance policies regularly. If you are unsure about your beneficiary designations, check your policies, and take the steps necessary to make appropriate changes. *MM*

Can a Living Trust Replace Your Will?

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Many states have adopted the Uniform Probate Code, which greatly simplifies the process for many small- to medium-sized estates.

But, even with improvements in the probate process, the probated assets in your estate still become a matter of public record, which raises important privacy concerns. Avoiding probate may also make sense if you own properties outside your state of domicile, which means your estate would be subject to multiple probate proceedings.

Once you set up a trust, you must transfer assets into it. Failing to do so will subject your assets to probate. Simply signing a trust document *without* retitling assets renders your living trust useless.

If I "Fund" a Trust, Do I Still Need a Will?

The short answer is yes. Generally, a revocable living trust cannot entirely replace the need for a will. There are some assets you may not wish to place in a trust. For example, it may be impractical to transfer tangible personal property such as automobiles, furniture, and jewelry to a trust. Consequently, some of your assets will remain outside your trust, making a will necessary to specify your intended beneficiaries. If you have minor children, a will may also be used to designate a **guardian** for them.

Also, some assets may require special considerations. For example, retirement accounts (**Individual Retirement Accounts (IRAs)**, **401(k)s**, **profit-sharing plans**, and **Keoghs**, to name a few) cannot be retitled to a living trust, although you could change the beneficiary designation to the trust. However, naming someone other than a spouse as beneficiary of a qualified retirement plan may require spousal consent, since in many states spouses now have rights to retirement plan benefits. In addition, naming your trust, rather than your spouse, as the beneficiary of your qualified plan may have income tax consequences when you die.

Advanced Issues

Revocable living trusts are complex legal documents. In addition to the advantages mentioned, they offer other benefits, as well. For instance, under the right circumstances, a properly funded living trust can help reduce estate taxes. The bottom line is that individuals involved in the estate planning process should work with an estate planning team, including their own personal legal or tax counsel. Your professionals can help you examine all variables affecting your property—the *type* of assets (e.g., real estate, life insurance, bank accounts, savings, business interests, and personal property), *where* they are located, and *how* they are titled—and determine if a revocable living trust can benefit your short- and long-term estate planning goals. *MM*

A Parting Thought...

Disability income insurance can provide a benefit to replace a portion of your income should you sustain a disability and be unable to work for a period of time. This protection can be important to help provide for your family's living expenses without relying on savings.

Whether you need an individually-owned disability income insurance policy depends, in part, on your liquid assets, family income, and other sources of disability income such as group coverage at work, workers compensation for injuries sustained while on the job, Social Security, and veterans benefits. There are different types of disability policies with different levels of coverage. To learn more, contact your qualified insurance professional.