

MoneyWisdom Blog

Going Through A Divorce? Don't Change Your Beneficiaries... Yet

Posted by [Diana Burrell](#) on Mar 23, 2018 7:00:00 AM

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If you or your spouse have filed for divorce, you may have the overwhelming urge to change beneficiary designations on your checking and share accounts, personal investments, life insurance, and retirement savings accounts — especially if your relationship with your spouse is contentious. The last thing you want to do at a time like this is ensure your soon-to-be ex gets their hands on money that belongs to you, right?

This urge is understandable, but it could be a huge mistake — even illegal — to do so in the midst of divorce proceedings.

Each state has its own laws about what you can and can't do once divorce papers are filed. For example, upon filing for divorce in Massachusetts an automatic financial restraining order goes into effect that prohibits either party from changing life insurance or IRA beneficiaries.

Even if you live in a state where there's no law against erasing your spouse from your financial life, it could be in your best interests to resist that urge.

Your first course of action is to check with your attorney.

"In fact, you shouldn't take *any* financial steps during divorce without consulting your divorce attorney," said Brette Sember, J.D., a former divorce attorney and mediator based in New York. "In addition to possibly violating state law, it's important to remember that your divorce will be settled or decided as one big package, and all the accounts you're looking at are part of that package. If you start fiddling with them, you're going to not only wreak havoc with the negotiations, but you're going to spend more in legal fees to sort it all out."

Another key point to remember is that there will be a third party weighing in on negotiations: a judge, the final arbiter of who-gets-what in the settlement agreement.

Sember, author of *The Complete Divorce Guide*, pointed out these actions can indicate to the judge that you're intent on punishing your spouse financially. Moreover, if you're in violation of state law, you could be cast in a bad light, while your spouse comes off looking like a victim.

Finally, you've got to think about any minor children who will be affected by divorce proceedings.

Changing your beneficiary designations could affect them if they're listed as alternate beneficiaries, said Sember. "And even if they aren't and your spouse is seeking sole or primary custody, taking actions to cut the other spouse off at the knees financially does have an impact on the kids and can have an indirect impact on your custody case."

On the other hand, what if you suspect your spouse has removed you as beneficiary from their accounts? Here's what to do:

First, get all the facts. How do you know this has happened? If you still have access to the account(s), login or call and find out. Check all your other accounts to determine if you're dealing with an isolated incident. It's important to get as many details as you can before assuming anything and reacting in a way that could affect your case. "Confronting your spouse may not necessarily be the best choice, particularly if it's going to lead to a blowup, so don't go into attack mode," said Sember.

If you're sure your spouse has made changes but you can't get proof, tell your lawyer, who can get the documentation with a subpoena. As Sember pointed out, there's no need to blow up if your spouse has removed you as beneficiary. "It can all be undone via order of the court," she said.

Concurrently, you should make sure your financial self-protection is in good order, following guidelines set out by your state's laws governing divorce. For example, this may mean closing joint accounts and moving half the assets into your own accounts, and opening credit cards in your name only. Make copies of all financial documents and store them where you can get at them easily.

Lastly, fight to keep your emotions in check, even if your spouse's actions are egregious violations of your financial rights. "It's easy to get caught up in a panic or a fit of anger when you find out your spouse has done something that seems spiteful," said Sember. "The first thing you really need to do before anything else is talk to your lawyer. You need to get the facts about what the law is in your state and you also need to find out what you can do to protect yourself moving forward."

Once your divorce is final, you can change your beneficiary designations as long as they follow the settlement agreement you made with your ex-spouse. For example, you may have to keep your spouse as a beneficiary on a life insurance policy during the time child support and alimony payments are being made, but you could be free to change the beneficiary on all your savings or share accounts, as well as retirement accounts if they're not part of the settlement agreement.

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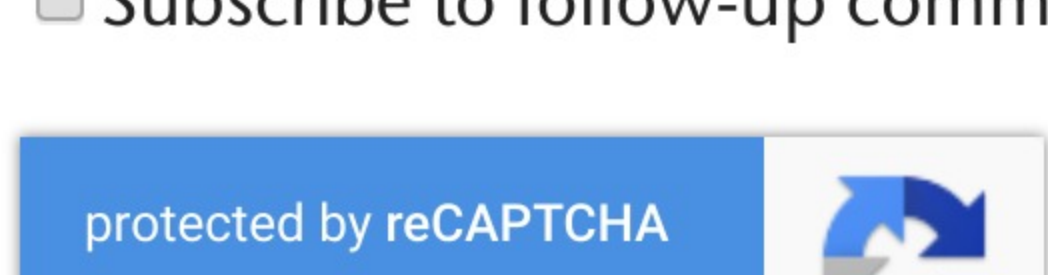
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