

Beneficiary Designation Form

Excerpted from "Drafting under the SECURE Act" (printed 2/12/2020), by Steven B. Gorin, available by emailing the author at sgorin@thompsoncoburn.com.

RETIREMENT ACCOUNT OF JOHN A. DOE ATTACHMENT TO BENEFICIARY DESIGNATION

Primary Beneficiary.

If I am survived by my spouse, Jane B. Doe, then my entire account shall be paid to my spouse. However, if and to the extent my spouse (or the personal representative of my spouse's estate) disclaims an interest in the account, then the disclaimed portion of the account shall be paid to the trustee of the John A. Doe Marital Trust created upon my death under the provisions of the John A. Doe Revocable Trust Agreement dated _____, [as amended _____, and] as may be further amended from time to time (the "Revocable Trust Agreement"). If and to the extent that my spouse further disclaims an interest in the account in said Marital Trust, the disclaimed portion of the account shall pass to the Contingent Beneficiary (see below).

Contingent Beneficiary.

If (a) I am not survived by my spouse, or (b) my spouse survives me and dies without designating one or more beneficiaries to receive the full amount of my account, then upon the second to die of my spouse and me, my account, or any portion thereof with respect to which a beneficiary has not been designated, shall be divided into the following shares:¹

1. One (1) equal share for each of my children who is then living. For purposes of this instrument, my children shall mean [children's names], [and any other child of mine born or legally adopted by me after the date of this instrument.]
2. One (1) equal share for each of my said children who is not then living but has one or more descendants who is then living.
3. A share established under (2), above, shall be further subdivided among the then living descendants of my deceased child, per stirpes.

The share of each living child, and the subshare of each descendant of a deceased child of mine, shall be paid to the trustee of the Life Trust for such child or descendant under the Revocable Trust Agreement.²

¹ IRA custodians often reject this introductory paragraph due to system limitations. In that case, one might instead use:

If I am not survived by my spouse, then my account shall be divided into the following shares:

² If you want to plan for separate Life Trusts with different payout periods (see text accompanying and preceding fn 3 on page 12 of this memo), consider substituting for that sentence:

Miscellaneous.

1. If my spouse and I shall die simultaneously or under such circumstances that it cannot be determined with reasonable certainty who died first, then it shall be presumed for purposes of this designation that I survived my spouse.
2. The Custodian may conclusively rely upon the certification of the trustee(s) under the Revocable Trust Agreement as to proper payees under the Contingent Beneficiary portion hereof and shall be fully released and discharged from any and all liability for payments in reliance upon such certification.
3. Regardless of who is named as beneficiary above, the trustee(s) under the Revocable Trust Agreement and the personal representative, administrator, or other duly appointed representative of my estate shall be provided with such information regarding my account or the beneficiary(ies) of my account as such person(s) may request.

Date: _____

John A. Doe

The share of each living child, and the subshare of each descendant of a deceased child of mine, shall be subdivided further into ____ equal subshares, with each further subshare paid to the trustee of a separate Life Trust for such child or descendant under the Revocable Trust Agreement. Nothing in the preceding sentence shall be construed as limiting the trustee's authority to combine trusts, before, during, or after those trusts are funded.