

## Team Tisser Foundation



Team Tisser Foundation (TTF) is a non-profit corporation founded by Doron M. Tisser and his wife Laurie. TTF raises money for various charitable purposes and does not focus on any one charity or charitable purpose. The goal is to raise as much money as possible to "Help Make A Difference" by "Improving Life for Others." TTF has made donations to Memorial Sloan-Kettering Cancer Center, Leukemia & Lymphoma Society, Challenged Athletes Foundation, as well as charities helping people affected by natural disasters such as Hurricane Katrina and the Tsunamis. Since 2000, TTF has donated almost \$175,000 to over 25 different charities. Friends and clients generally donate money to TTF to support Doron's participation in triathlons and marathons. If you would like more information about TTF, please contact Doron at [doron@tisserlaw.com](mailto:doron@tisserlaw.com), or visit [www.teamtisser.org](http://www.teamtisser.org)

### Quick Links

[www.tisserlaw.com](http://www.tisserlaw.com)  
[www.teamtisser.org](http://www.teamtisser.org)

### About

#### Doron M. Tisser

Doron M. Tisser has specialized in estate and gift planning, tax planning, trust and probate administration, charitable giving, buy-sell agreements and related areas for over 27 years. Mr. Tisser is one of less than 100 attorneys in California who has been designated as both a Certified Specialist in Probate, Estate Planning and Trust Law, and as a Certified Specialist in Taxation Law by the State Bar of California Board of Legal Specialization. He was chosen by his peers as a Super Lawyer for 2009, 2010, and 2011 for Southern California, and enjoys an "a.v." rating by Martindale-Hubbell Law Directory, which is the highest possible rating and is based on ethical considerations and legal skills. Mr. Tisser has published over 65 articles and chapters in books on various estate and tax planning subjects and is a frequent speaker and lecturer at estate and tax planning seminars. Mr. Tisser competes in triathlons, including Ironman races, and raises money for charities through Team Tisser Foundation, a non-profit corporation he co-founded with his wife Laurie.



### What's Happening

Each month, we place a special column on the left-side of the Tisser Law Group website, [www.tisserlaw.com](http://www.tisserlaw.com), which has interesting facts or stories. We invite you to view our web-site each month to see the latest addition. This month, we are discussing some of the strangest Will bequests ever made.

The Tisser Law Group will be holding its 2nd annual conference on The State of Estate Planning on March 16, 2011 and March 22, 2011. If you would like to attend, please make a reservation by calling either Laura Stein or Karina Kogan in our office. You can reach Laura at [laura@tisserlaw.com](mailto:laura@tisserlaw.com) and Karina at [karina@tisserlaw.com](mailto:karina@tisserlaw.com), or call them at (818)226-9125.

If you would like Doron M. Tisser to speak to your group or organization about the new estate tax laws, or other estate planning subjects, please contact Laura Stein or Karina Kogan at [laura@tisserlaw.com](mailto:laura@tisserlaw.com) or [karina@tisserlaw.com](mailto:karina@tisserlaw.com), or call them at (818)226-9125

Doron M. Tisser has been named a Super Lawyer for 2011 in the field of Estate Planning. In addition, he is one of the top 100 attorneys to receive the highest point total in the nomination, research and blue ribbon review process. Only 5% of all attorneys are selected by their peers as Super Lawyers. This is the 3rd year in a row he has been named as a Super Lawyer.

Team Tisser Foundation, our non-profit corporation, has a valuable offer for you. Team Tisser has made arrangements with Cycle World, in Northridge, California, to give friends of Team Tisser a special deal on bicycles and related items. If you make a purchase from Cycle World, you will receive a store credit of 10% of your purchase price on non-sale items to be used on your next purchase at the store. In addition, Cycle World will donate 10% of your total purchase price of non-sale items to Team Tisser. This is a win-win for you and Team Tisser. Go to [www.teamtisser.org](http://www.teamtisser.org) to find out more about this offer. Please tell all your friends about this offer and start shopping at Cycle World. Incidentally, Doron M. Tisser just purchased his new triathlon bike at Cycle World and loves it.

### Retirement Plan Beneficiaries: The Do's and Don'ts

IRAs and retirement plans (such as 401(k) plans, profit-sharing plans, and 403(b) plans) are assets known as "beneficiary designation assets" ("BDAs"). There are assets that cannot be transferred into the name of your family trust. BDAs pass to the persons designated as beneficiaries of these plans, as registered with the plan administrator; whoever you have named as the beneficiary of a BDA will receive the asset when you die.

One of the most important, yet most often ignored, issues in estate planning is the designation of beneficiaries for BDAs. The issue is whether the naming of the beneficiaries for BDAs is consistent with your Will, family trust and other estate planning documents. If it is not, then your estate plan may not have the results you want it to.

It is important to note that BDAs that pass to named beneficiaries do not go through probate. In addition, beneficiary designations take priority over the provisions of your family trust; therefore, BDAs ignore what your family trust says in terms of who receives assets from your trust when you die and at what ages they are to inherit. This can cause a major dilemma with your estate plan, as discussed below.

So, who should be the beneficiaries of your BDAs? That depends on your intention. The beneficiaries of your BDAs need to be thought through carefully. They are not necessarily the same as the beneficiaries of your family trust. For example, you may want to name a charity as beneficiary of your BDA, rather than your children, for tax purposes, as discussed below.

### Children as Beneficiaries

You will probably have spent a fair amount of time deciding who the beneficiaries of your estate should be. If you have children and grandchildren, you may have decided how to divide the assets among them.

If you feel a beneficiary is not ready to handle ownership of money or other assets (either because he or she is too young or not economically responsible), you will have decided who should be the trustee of the trust for that beneficiary and at what ages the beneficiary should receive the assets.

For example, you may decide to have the assets placed in a trust for the beneficiary after you die, with discretionary distributions determined by a named trustee, and the trust assets being distributed to the beneficiary in thirds, at ages 30, 35 and 40. This allows the beneficiary to receive 1/3 of the assets at age 30. If the beneficiary wastes the assets, he or she will receive two more chances to be responsible with the inheritance by receiving the remainder of the assets at ages 35 and 40. The goal is to not give the beneficiary too much too soon, and allow him or her to learn from his or her mistakes.

The type of distribution plan discussed above has advantages and protects the beneficiary from himself or herself. However, the benefits of this type of planning can be ruined if the naming of the beneficiaries of BDAs is not carefully considered.

For example, assume that your son is 21 years old and your family trust states that the trust assets are to be held in trust for your child and distributed to him at ages 30, 35 and 40. Your family trust has assets in it worth \$1 Million. Also, assume that you have named your son the beneficiary of your IRA, which is worth \$600,000.

It is your intent is that your son not receive his entire inheritance when you die if he has not reached the ages specified in your family trust. However, because of the way the beneficiary designation for your IRA has been set up, your son will receive the \$600,000 from the IRA right away when you die. Only the assets in the family trust will be held in trust for your son. Therefore, your son will have the opportunity to do whatever he wants with the money from the IRA at age 21.

Even worse is if your son is under the age of 18 when you die. If, for example, your son is 15 years of age at your death, the IRA will not be distributed to him at your death. Instead, because he is a minor, the monies will be held in a court supervised blocked account until he turns 18, at which time the court will say "Happy Birthday" and turn over those monies to him. Again, remember that the provisions of your trust are irrelevant as to the IRA because you have named your son as the beneficiary of the IRA.

If you want a BDA to be held for a beneficiary until he or she certain ages, you will have to create a special trust known as a Designated Beneficiary Trust ("DBT") to be the beneficiary of the BDA. In turn, the individual will be the beneficiary of the DBT and a trustee you name will determine how distributions from the DBT are to be named to the beneficiary, which will probably be under the same terms as the trust for your son under your family trust.

Your family trust will not generally qualify as a DBT. So if you name your family trust as the beneficiary, it is likely that all the money will need to be withdrawn from the IRA within five years of your death and all the income taxes paid at that time. On the other hand, naming a DBT will allow the DBT to withdraw the money from the IRA over the beneficiary's life expectancy, as discussed below.

### Tax Consequences for Individual Beneficiaries of BDAs

#### Spouses

If you name your spouse as the beneficiary of your BDA, your spouse will generally not have to pay income taxes or estate taxes as to the BDA. As long as your spouse rolls over the BDA to his or her own BDA, there will be no income tax until the spouse starts withdrawing monies from the BDA.

If your spouse is a United States citizen, there will be no estate tax on the BDA until your spouse dies. If your spouse is not a United State citizen, you need to do tax planning to make sure there will be no estate taxes on the BDA when you die.

#### Non-Spouses

If you name an individual other than your spouse as the beneficiary of a BDA, he or she will need to withdraw the money from the IRA at times specified by Federal tax regulations. In general, the money must be withdrawn from the BDA within five years of your death. However, if certain requirements are met, the beneficiary may be able to take the money out over his or her life expectancy, which can create large economic and tax benefits for the beneficiary. While the rules for allowing an individual to withdraw monies from a BDA are beyond the scope of this Newsletter, the important thing to remember is that proper planning can greatly benefit the beneficiary.

Regardless of when the beneficiary withdraws money from the BDA, the beneficiary will have to pay income taxes as the money is withdrawn.

In addition to the income tax consequences to an individual beneficiary of a BDA, the assets in the BDA may be subject to an estate tax when added to the other assets owned by you at your death.

If the BDA is a large part of the estate, the question becomes "where do the monies come from to pay the estate tax?" If assets other than the BDA are used to pay the estate taxes, that may leave the BDA as the only asset left to be inherited by the family. If your family is forced to use the BDA monies to pay the estate taxes, they will have to pay an income tax when they withdraw money from the BDA, thereby leaving only about 55% of the withdrawn money available for paying estate taxes (after paying a 45% income tax on the withdrawn money).

#### Charities

If you want to leave money to a charity at your death, it is often more advantageous to name the charity as beneficiary of your BDA, than to name it as a beneficiary of your family trust. If the charity receives money from your BDA, it will not have to pay income tax on the money (because it is a tax exempt organization). Therefore, it may be more tax advantageous to leave income taxable assets to a charity, and non-income taxable assets (such as real estate and brokerage accounts) to individuals.

The same analysis would apply to a BDA if your estate is subject to an estate tax when you die. If your BDA names an individual as beneficiary, there may be an estate tax on the money in the BDA, while if you name a charity as beneficiary, there will be no estate tax on the BDA left to the charity.

#### Conclusion

As you can see, identifying the beneficiaries of your BDAs is one of the most important and often overlooked aspects of estate planning. Make sure to review your beneficiary designations carefully to be sure that your wishes will be carried out.