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# Ask the Experts: Careful wording needed for inheritances

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IRAs. House deeds. Trust amendments. Those topics get tackled this week by estate planning attorney Lynn Dean, who answers readers' questions at www.sacbee.com/ask. Here's a sampling of her recent "Ask the Experts" advice:

Q: My husband and I have a revocable trust. Most of our retirement money is in our IRAs, which list our son and daughter as equal beneficiaries. If we list the IRAs as assets in our trust, does that mean the trust is the beneficiary? We want these to be "inherited IRAs" so our children can take the annual distributions during their lifetime. Should we leave the IRAs out of the trust?

**Lynn Dean:** This is a very common question. In most circumstances, it is better to name individuals ï i.e. your children ï as beneficiaries, so they have the option to take distributions from the IRA over their **life expectancy.** The only exception would be if your children are minors, or at an age where you would not feel comfortable with them getting the IRA proceeds immediately. In those situations, the trust should be named as the beneficiary and state how you want the IRA funds to be distributed. Since your children are already named as beneficiaries on the IRAs, they will receive the proceeds once you're gone.

Once a parent passes away, the children have several options, such as: They can take the full IRA holdings and pay taxes on the entire amount. Or they can begin taking annual withdrawals, based on the shortest life expectancy of all beneficiaries (commonly referred to as a "stretch" IRA).

Any beneficiary of an IRA only needs a death certificate to receive the entire amount in a lump sum. If you have $1 million in an IRA, with two kids getting $500,000 each, that's a big amount, even after taxes.

That's why the real question is not whether the IRA should be listed in the trust: it's who should be listed as the beneficiary.

**Q: My house was recently paid off. How do I add my wife's name to the title?**

**Lynn Dean:** In order to add a name to an existing property title, you need to prepare a quitclaim deed. Have a title company or attorney help you to be sure the deed is correctly prepared and the

**Q: Do I need an attorney to add an amendment to my living trust? If not, what is the legal procedure?**

**Lynn Dean**: I have seen many trusts that contain multiple sheets titled "Amendment to Trust," which sounds like all you need to amend a trust is to write out the changes you want. I recently reviewed a trust that had 10 amendments done exactly that way.

Unfortunately, by the time you read all the amendments, you are no longer sure what the person really wanted.

Typically, a trust will state how it can be amended, such as "by a written instrument," which means you have to amend it in writing, not by verbally telling someone, "I want to change my trust and leave my house to you."

A trust amendment does not require a redraft of the entire trust. When creating an amendment, I reference the remaining parts of the trust and affirm that the person still intends those to be enforceable. A substantive amendment ï changing the beneficiaries, distribution formula or trustees ï must be done with care. If it is unclear what the person's true intentions were, the trust could be contested in court.

You would be well served to consult an attorney who could review the trust, make sure that all your assets have been properly transferred into the trust, and prepare a properly worded amendment. Later on, it could save your beneficiaries a lot of attorney's fees.