

# The Decision to Give NOTICE to Beneficiaries or NOT!

## And Other Estate Planning Memos

When you set up your Trust, you have to make the decision to give Notice to your Beneficiaries or not. You do NOT have to give them notice! If you do not, it is called a “blind trust”. You can just name the parties and their percentages in the language of the Declaration of Trust, OR you can create/print the Certificate Units (Trust Certificates of Beneficial Interest).

So why would you WANT to give your beneficiaries Notice, and when/why would you NOT want to? When you die, all property is now in your TRUST, so you will either avoid the entire Probate process or it will be much much swifter. But you must have a trustee that stands by ready and able to prove to the court that he is a second trustee and that your property is an exception to the Probate. Why you say? Because the TRUST is living even after you die, you still have 1 trustee left, who is either supposed to go it alone or accept a successor trustee to replace you. So, you have to think – how well you really know your second trustee? And what would they do with legal control of the trust assets (all your property is now trust property!)... do you trust them to hold on to the trust property and do with it what the trust has resolved should be done with it? Did you have a minutes meeting or amendment to your Declaration of Trust stating that in the event of the your death, that all trust property shall be distributed to the beneficiaries and the trust dissolved? You have to think how you want to plan this out, and have a written trail of what you want to happen to the trust property (all your property was put into the trust!). Remember, YOU have no property anymore. But the courts may not be aware of the existence of this trust, unless they are told about it. Someone (2<sup>nd</sup> trustee) may be called to respond to the court or go to court to show documentation and answer to the court about the existence of the trust. Basically, you have to the point of your planned or unplanned death, to really work this stuff out! Read the book “How to Avoid Probate” by Dacey for more info, and get with our Status Correction Courses and future courses. You don’t have to learn THAT FAST unless you feel you are at risk of dying anytime soon... but accidents happen and the more property you put into your trust, and the needs of any (or lack of having any offspring/heirs yet), shall be the motivation to either get it done sooner, or to delay figuring this all out in the future. Remember, if your Declaration of Trust has a provision that allows a retroactive amendment to it upon consensus of the board, then you can always replace the original Declaration with an “Amended Declaration of Trust”. So...you can always kind of fix a lot as you learn more. Hopefully this package will get you set up and start to learn by experience and setting it up. You can also always have a board resolution and type up a one page minutes meeting, the board resolving to strike certain decisions, etc. But you can’t retroactively strike beneficiaries from your trust – that is against trust law – the only way to replace them is if they resign and send a notice of resignation to the board of trustees. I suppose if you named beneficiaries and never sent them a notice, that you can get away with striking and replacing them because really, who will ever know you did this? I recommend keeping some of your beneficial interest OPEN, for the next 1-5 years while you learn more about trusts, read the Dacey book, develop new relationships or discover new charitable causes, some of you want to set up a Ministry and maybe make them one of your heirs... if you have much life to still

live, then it's recommended to keep about 50% of your trust beneficial interest UNASSIGNED. You will need 50% of the interest to be designated if you are to open a bank account, as \*usually\* they will only open an account if 50% or more are named. Sometimes they don't know, or don't see the numbers, so it is still possible to get away with less than 50%.

**When would you WANT to give your beneficiaries notice:**

1. If you are the Only Trustee that talks to or knows your beneficiaries! If you die, how will your 2<sup>nd</sup> trustee get a hold of them to send them any of your property/money ??
2. If you do not know your initial second trustee all too well, and do not trust them to hold onto all the trust property/money after you die.
3. If you are 100% sure you are going to not wish to replace a beneficiary.

**When you do NOT want to give your beneficiaries notice:**

1. If you are not sure how many kids or heirs you are going to have, as this makes it difficult to evenly distribute all your wealth. You COULD simply put in the trust declaration that "all your natural born offspring conceived with so-and-so woman or conceived from X, Y,Z (multiple women/men), shall be equal heirs/beneficiaries".
2. If you are not sure... if you are still seeking another partner or are very very young and have the bulk of your life to live... then it's recommended not to give your beneficiaries notice, and to instead have more of a generic language in your declaration of trust.

So, based upon those factors, if you do decide to give your beneficiaries notice, then you can do so and should do so soon (within 30 days) of creation of your trust. Merely sending that 1 page notice with the TCU Units, original signed document, to them at their address and confirming that they got it and keep it in a safe place, and that's it! If you wish to get green card/return receipt or certified mail, that is fine too. You can also post the proof of your beneficiaries on your secured party Trust, as a UCC-3, just to show even more proof that a trust exists, although it is not necessary.

The notice you send the beneficiar(ies/y) will be a legal document and record that they have to go to or respond to court with if your estate is attempted to be pushed through probate. Read the book recommended for more serious and in depth study and preparation if setting up your estate plan now is really a big priority for you!!!

Also, the more you learn now at a young age, the more you know so that you can properly educate your (older) family members and friends, or be involved in setting up \*Their Trusts/Estate Plan\*, and therefore, if they select you to be a beneficiary it means, that in/at the event of their death, you will get the swift transfer of the allotted property/money that you are entitled to. I believe that by educating family and helping them to save tens or even hundreds of thousands of dollars (or millions if there is a lot of property), probably will get you named as a beneficiary, even if you are more distant extended family or distanced friend... hey... you can even ask them for a 5 or 10% stake for helping them out!