



We'll Be Brief Advanced Sales tips and tools

In this forum, the Advanced Sales Team of OneAmerica® Financial Partners provides you with legal and tax information to utilize in your business.

Minor beneficiaries and UTMA

Section 3 of the Uniform Transfers to Minors Act (UTMA) provides that nomination of a custodian may be made “in a writing designating a beneficiary of contractual rights which is registered with the payor of the contractual rights.” Thus, the beneficiary designation of an annuity policy can provide that a minor’s interest in the policy proceeds be paid to a custodian under UTMA. The UTMA does not become effective until the proceeds are payable to the beneficiary. *This allows a minor to be the beneficiary of a policy without the need for appointment of a guardian or creation of a trust.*

If a beneficiary is a minor when the proceeds are payable, and if there is no reference to UTMA in the beneficiary designation, then a guardian must be appointed to receive the funds on behalf of the minor, or a probate order (naming a custodian and authorizing an UTMA) must be obtained.

As the above paragraphs reveal, providing for an UTMA in a policy beneficiary designation can streamline payment of proceeds to a minor after the policy owner’s death.

Example of usage

Insured / Transferor: John Doe (grandfather)

Custodian: Sam Doe (son)

Minor / Beneficiary: Grady Doe (grandson)

Facts: Sam is divorced. John does not want Sam’s ex-wife, who has primary custody of Grady, to have control of the funds from John’s policy that are to pass to Grady at John’s death. John resides in Indiana.

Designation: The beneficiary designation in favor of Grady Doe on John Doe's life insurance, annuity or IRA could read:

"Grady Doe, grandson of insured. However, if Grady Doe has not obtained the age of majority in the State where he is a resident at the time the proceeds of this policy become payable, then the proceeds to which Grady Doe is entitled shall be paid to Sam Doe, as custodian for Grady Doe, under the Indiana Uniform Transfers to Minors Act. Should Sam Doe be unable or unwilling to serve as custodian, said custodian shall be Susie Doe, daughter of the insured."

An outline of a generic form using this language is provided below.

Call Advanced Sales for assistance with special beneficiary designations. In addition to naming a custodian, a properly drafted beneficiary designation can act as a *de facto* trust by controlling the rate of policy distribution to a beneficiary who may otherwise be spendthrift. Additionally, creative and proper beneficiary designations can solve a host of estate planning concerns in a very cost effective manner.

Beneficiary Designation Form

(minor's name)

However, if _____ has not obtained the age of majority
(minor)

in the State where he/she is a resident at the time the proceeds of this policy

become payable, then the proceeds to which _____ is
(minor)

entitled shall be paid to _____, as custodian for
(custodian)

_____ under the _____ Uniform
(minor) (state*)

Transfers to Minors Act. Should _____ be unable or
(custodian)

unwilling to serve as custodian, said custodian shall be _____.
(alternate)

**The state may be the state of residence of the Insured, Custodian or Minor for the UTMA designation to be controlling. The recommended state is that of the Insured because they control the policy and are able to change the UTMA designation if they move. They may forget or be unaware of the need to change the designation if either the Custodian or Minor move to a different state after the initial designation is made.*