

Trust Connection

Building Lasting Relationships for the Benefit of our Mutual Clients

TRUST NEWS AND INFORMATION FROM YOUR TRUST REPRESENTATIVE OFFICE

Welcome to **Trust Connection**, a regular communication from Valley National Trust Services. The Trust Representative Office model provides a framework for cohesively connecting all of the client's key advisors: the Estate Planning Professional, the Financial Advisor and National Advisors Trust. Instead of encountering obstacles when working together, our "team approach" provides a solid trustee and investment management solution for clients' complex financial situations.

 **IN THIS ISSUE:**
Supremacy Clause Disinherits Spouse and Children

September is here and it's back to school! As always, **Valley National Trust Services** is focused on growth. As a Trust Representative Office of National Advisors Trust, we represent the largest federally-chartered trust company created by Registered Investment Advisors (RIAs). Our trust service model is built on the strength of the local support and responsiveness provided by you—the local estate planning professional, Valley National Advisers—the local and trusted investment advisor and National Advisors Trust serving as the trust administrator. This combined expertise allows us to excel in the services we provide delivering the best possible outcomes for our mutual clients.

Supremacy Clause Disinherits Spouse and Children

The United States Supreme Court recently decided unanimously that federal law requires life insurance benefits for federal employees go to the named beneficiary regardless of state laws.

In the case of *Hillman v. Maretta*, decided on June 3, 2013, the deceased employee's former wife was still named the beneficiary of his Federal Employees' Group Life Insurance Policy at the time of his death. His former spouse collected the proceeds of the life insurance policy despite the fact they were divorced, he was remarried, and Virginia law provides for automatic revocation of the beneficiary status of a former spouse in a life insurance contract when the deceased's marital status has changed.

The court found that because federal law overrides state law (in this case the Virginia law automatically revoked the bequest to the ex-spouse), the employee's designated beneficiary, his ex-wife, was entitled to the life insurance benefits.

The decision isn't a surprise. The court applied settled rules of statutory construction and conflict preemption to hold that when state laws conflict with Congress's purposes and objectives, the Supremacy Clause does not permit those laws to stand.

In the prior case of *Egelhoff v. Egelhoff*, 532 U.S. 141 (2001), the court ruled the Employee Retirement Income Security Act (ERISA) preempts Washington state statutes. In *Egelhoff*, an ex-spouse was the beneficiary of a pension and life insurance plan. The children from a previous marriage, the statutory heirs under Washington state law (relying on a Washington state statute that automatically revoked a beneficiary designation upon divorce), sued in Washington state

court to recover the life insurance proceeds. The children lost on both the life insurance and pension benefit plan.

Although ERISA has an exception for qualified domestic relations orders (QDROs), these rulings confirm other cases holding that even if the parties entered into a property and settlement agreement in which the named beneficiary disclaimed any interest in the insured's property, the waiver will not change the designation of the ex-spouse as the beneficiary unless the insured took affirmative steps to effectuate a change of beneficiary in compliance with the terms and conditions of the plan. In *Kennedy v. Plan Administrator for DuPont Savings and Investment Plan, et al.*, 555 U.S. 285, 129 S.Ct. 865, 172 L.Ed.2d 662 (2009), the plan administrator complied with its statutory ERISA duty by paying the plan benefits to the ex-spouse in conformity with the plan documents despite the divorce and the waiver of any interest in such benefits in the divorce decree. In *Flesner v. Flesner*, 2012 WL 113708 (S.D. TX., Jan. 13, 2012), the plan participant failed to submit written changes to his beneficiary designation as required under the terms of the ERISA plan and the ex-spouse was entitled to plan proceeds despite the divorce and property settlement agreement in which she waived her interest to all of his property.

THE LESSON

Most life insurance policies and benefit plans specifically outline what steps are required in order to effectuate changes to beneficiary designations. Where such steps are not taken, litigation will likely ensue. Divorce lawyers, estate planners and clients should not take anything for granted and should promptly review and update all beneficiary and other non-probate transfer designations.

IRS Circular 230 Disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication, including any attachments, is not intended or written to be used, and cannot be used, for the purpose of 1. avoiding penalties under the Internal Revenue Code or 2. promoting, marketing, or recommending to another party any transaction or matter addressed herein. Valley National Financial Advisors is the marketing name for Valley National Group, Inc. and its affiliates.

We Want To Hear From You!

Valley National Trust Services invites you to take advantage of our many avenues of marketing and communication, within the Lehigh Valley and nationally, by:

- Submitting an article for an upcoming issue of Trust Connection
- Presenting joint seminars on Estate Planning and using trusts
- Joining us for a live discussion on “Your Financial Choices”, our weekly radio program airing on WDIY 88.1 FM—Lehigh Valley Community Public Radio www.yourfinancialchoices.com

If you would like to explore any of these opportunities, please contact one of our Trust Representatives today!



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About Our Firm

Valley National Financial Advisors is an independent one-stop financial services group of companies that offer personalized, comprehensive and coordinated financial services. Established in 1985, Valley National has developed a reputation for innovation, financial strength, and quality. Our financial professionals are experts in delivering financial needs-analysis, wealth accumulation, risk management and planning instruction and counsel in a professional, useful manner.

Valley National Advisers works within a planning structure that has as its single goal the best interests of each client. Each financial recommendation is based on personal interviews, data gathering, document review, and a thorough understanding of the client's financial goals. With a complete planning process, advisor recommendations are made with an understanding of the "big picture." We see a greater need for trusts with today's ever-changing estate tax environment and family dynamics. With National Advisers Trust Company, you stay involved and your client's benefit from low trustee fees. Contact us for more information on how we can support you in business succession planning or trust services.



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TRUST SERVICES PROVIDED BY NATIONAL ADVISORS TRUST COMPANY, FSB

Securities offered through Valley National Investments, Inc. MEMBER FINRA, SIPC



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