



# Estate Planning: Strategies for Feds

A NARFE Federal Benefits Institute Webinar

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*Closed Captioning (CC) is available on the recorded version of this webinar.*

# Agenda



**Estate Planning 101**

**Probate**

**Understanding Beneficiary Designations**

**Thrift Savings Plan (TSP)**

**SECURE Act**

**Resources**



# Estate Planning 101



## An effective estate plan deals with death and incapacity

### It provides a framework for

- Financial decisions
- Health care decisions
- Dealing with administrative issues when settling an estate
- Distributing assets to intended heirs
- Minimizing taxes





## Lifetime decision making – dealing with incapacity

- Power of attorney (POA)
  - Either **durable** or **springing**
  - Designation of agent to manage legal and financial affairs
  - Need additional documentation for some federal benefits
- Health Care Directive
  - Sets forth choices regarding medical care and end-of-life decisions
  - Designation of agent to carry out health care choices and make decisions
- Revocable living trust
  - Trustee acts as fiduciary to manage trust assets on behalf of beneficiary





## After-death decision making

- Will
  - Names personal representative/executor to administer estate after death
  - Names guardian for minor children
  - Provides instructions for transfer of probate assets
- Revocable living trust
  - Co-trustee or successor trustee administers trust assets
  - Provides instructions for transfer of trust assets





## I don't have a will, but won't my spouse get all my assets anyway?

### State law dictates distribution. Examples:

- Maryland
  - Spouse receives about 1/2 and children get other 1/2
- Virginia
  - Spouse gets everything, unless there are children from previous relationship
    - Spouse gets 1/3, children get remaining 2/3
- Washington, DC
  - Spouse gets 2/3 and common children get 1/3
  - Spouse gets 1/2 and children get other 1/2 if not all common





## Revocable living trust

- Provides control and direction of trust assets
  - During incapacity and at death
- Parties involved
  - Grantor
  - Trustee
  - Beneficiary
- Avoids probate
- Simplifies estate administration at death
  - Real property owned in multiple states
- Does not replace a will
- Must properly fund trust





## Do I need a revocable living trust?

### Reasons to consider

- Estate tax planning
- Complex assets
- Real estate in multiple states
- Minor children
- Control money from grave
- Blended family
- Significant assets

### Not likely if the only reason is to avoid probate

- Instead, consider using:
  - Payable-on-death (POD)
  - Transfer-on-death (TOD)



# Probate



## Court-supervised process that identifies and oversees distribution of **probate assets**

- As communicated in will
- By state law if no will exists

## Probate is public record

## Ancillary probate

- Own real estate or other tangible property in multiple states



## Not all assets pass through probate

Asset	Probate Transfer	Non-probate
Assets titled in an individual's name	X	
Assets owned tenants in common (TIC)	X	
Assets owned joint with survivorship rights		X
Assets with beneficiary designations		X
*Life insurance contracts		X
*Annuity contracts		X
*Thrift Savings Plan		X
*IRAs		X
*401(k)s and other retirement plans		X
* POD (payable-on-death)		X
* TOD (transfer-on-death)		X
Assets held in trust		X



## Adding children as joint owners

- Avoid probate
- Avoid inheritance tax
- Provide control in case of incapacity

## Beware

- Completed gift = potential gift tax consequences
- Child is legal owner
  - Access, control, liability
- Partial loss of cost basis step-up at death
- Unintended inheritance consequences
  - Not all joint ownerships have survivorship rights



# Understanding Beneficiary Designations



## Assets with beneficiary designations

- Transfer to beneficiary outside of probate
- Transfer to named beneficiary regardless of will
- Critical to periodically review and update beneficiary designations
  - Life events
    - Divorce
    - Marriage
    - New children/grandchildren
- Know what happens if no valid beneficiary on file
  - Order of precedence?





## Order of precedence

- Applies in some cases when there isn't a valid designation on file
- The following federal benefits have a statutory order of precedence
  - Federal Employees' Group Life Insurance (FEGLI)
  - Thrift Savings Plan
  - CSRS lump-sum payment upon death of a current employee
  - FERS lump-sum payment upon death of a current employee
  - Payment of unpaid compensation upon death of a federal employee



## TSP's order of precedence

1. Your spouse
2. If none, to your child or children equally, and to the descendants of deceased children
3. If none, to your parents equally or your surviving parent
4. If none, to your appointed executor or administrator of your estate
5. If none, to your next of kin, who is entitled to your estate under the laws of the state in which you resided at the time of your death



# Understanding Beneficiary Designations



**Should I designate a beneficiary or rely on the order of precedence?**

**Does the federal benefits beneficiary structure meet your needs?**

- May name primary and contingent beneficiaries
- May not
  - Name contingent beneficiaries to contingent beneficiaries
  - Use a per stirpes designation

## **Per stirpes**

- Latin for “by roots” or by representation
- Descendants of a deceased beneficiary receive deceased’s share

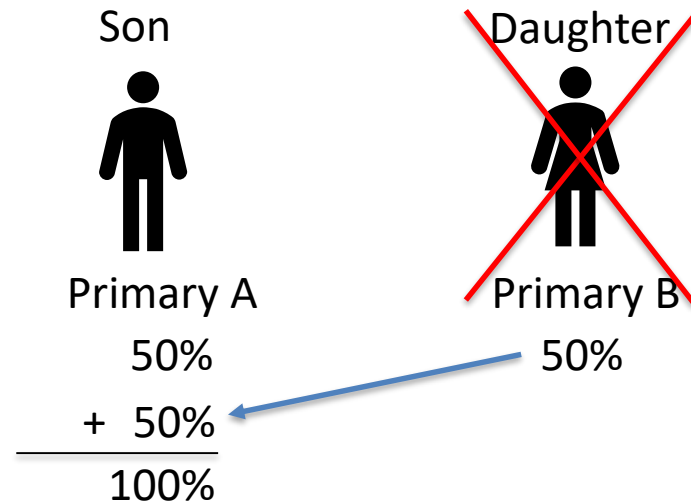


# Understanding Beneficiary Designations



## TSP beneficiary example

- Designated primary beneficiaries only

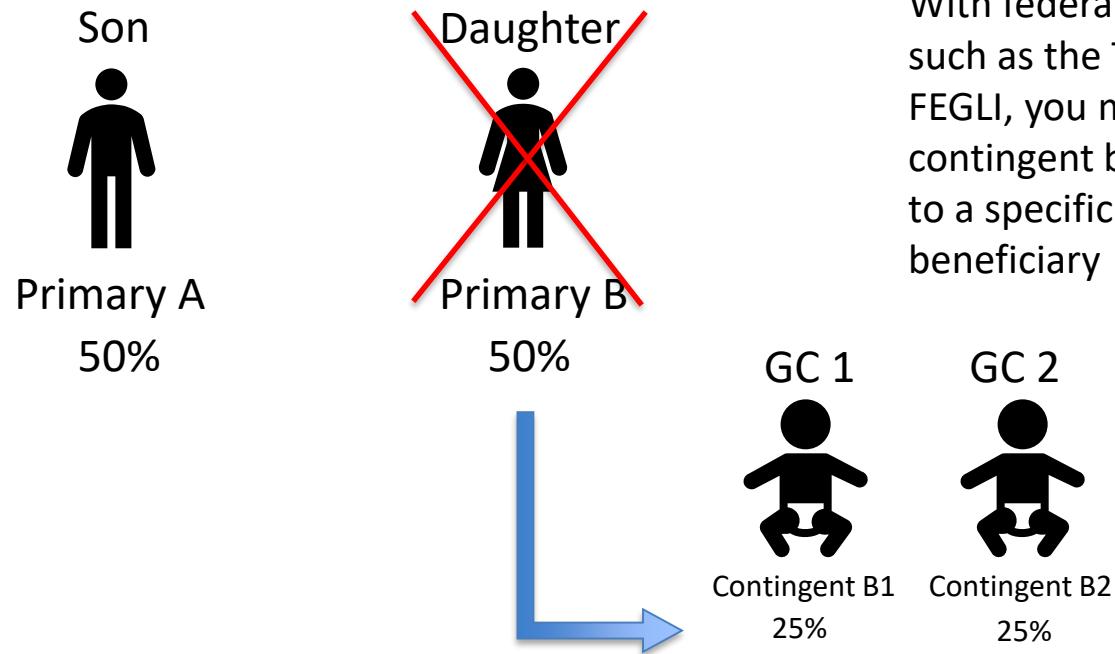


# Understanding Beneficiary Designations



## TSP beneficiary example

- Designated primary and contingent beneficiaries

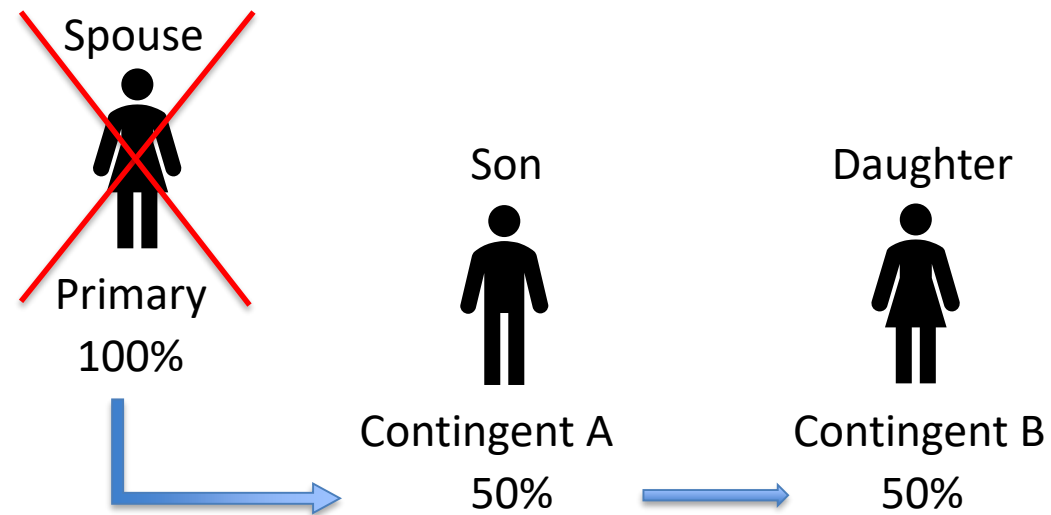


# Understanding Beneficiary Designations



## TSP beneficiary example

- Designated primary and contingent beneficiaries

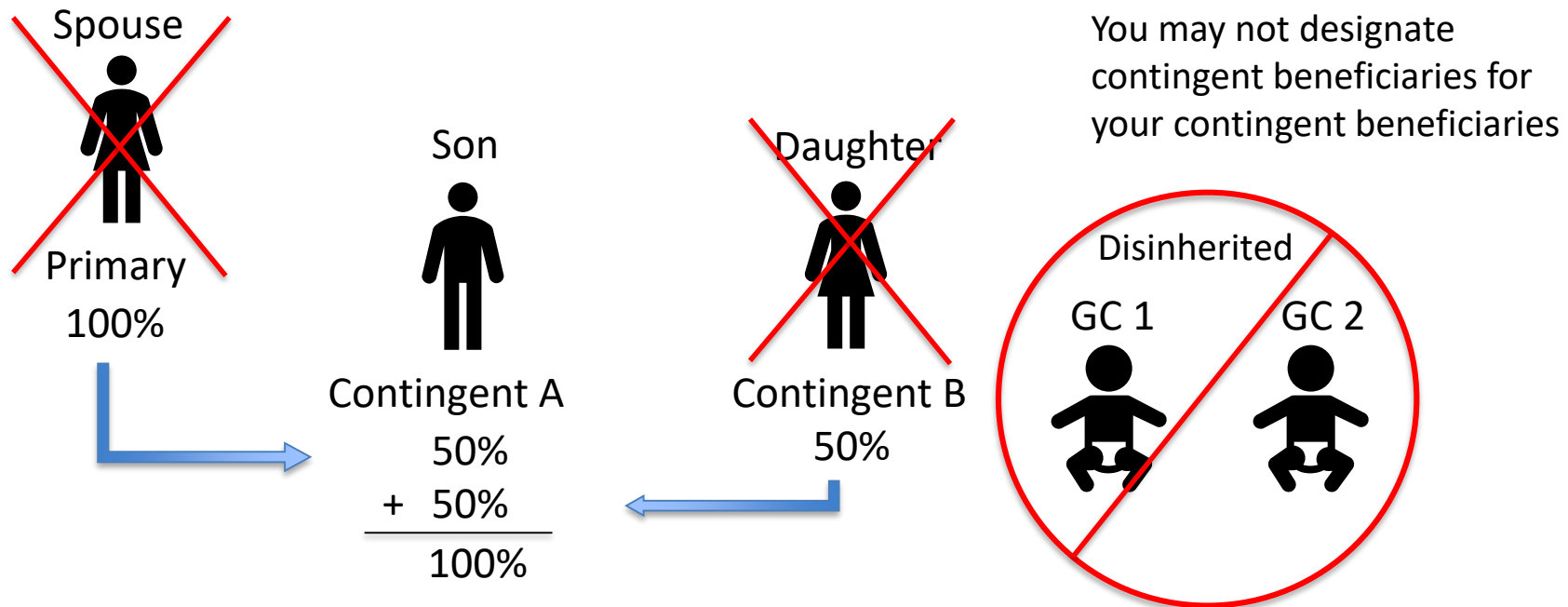


# Understanding Beneficiary Designations



## TSP beneficiary example

- Designated primary and contingent beneficiaries

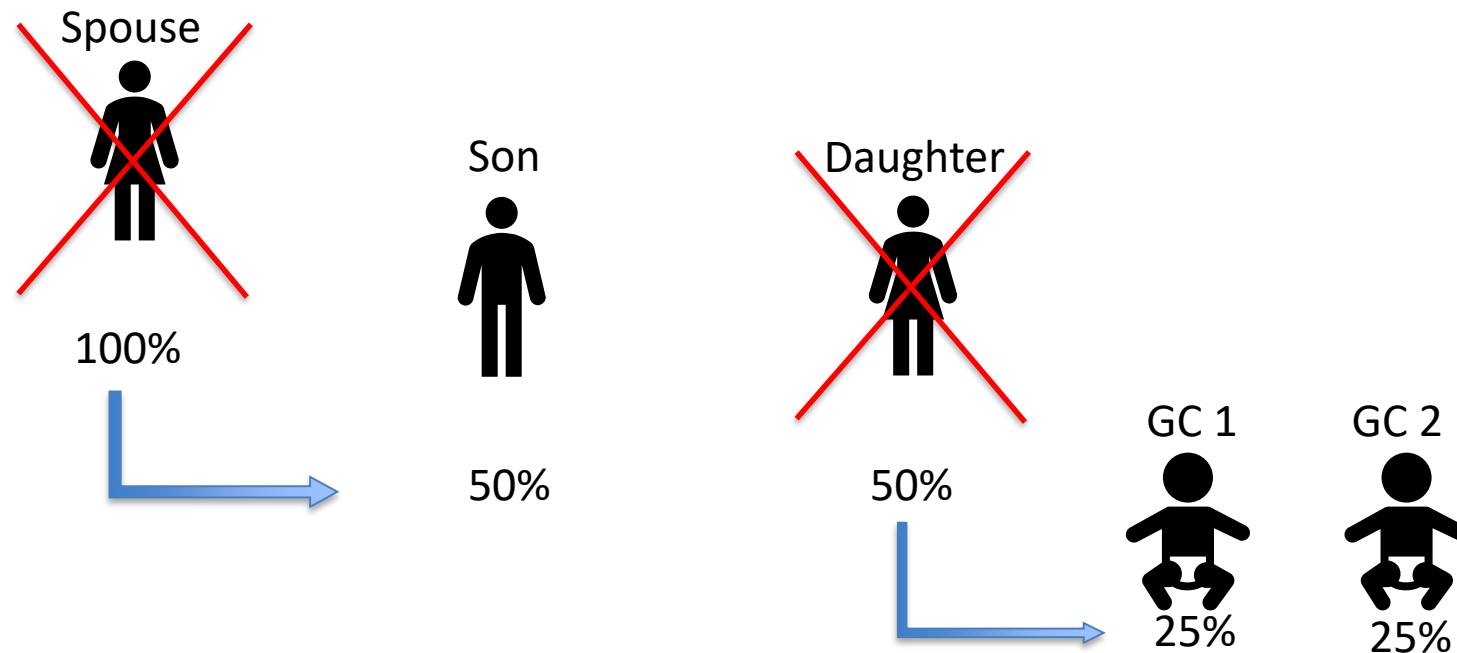


# Understanding Beneficiary Designations



## TSP beneficiary example

- No beneficiaries designated – order of precedence



# Understanding Beneficiary Designations



Does the order of precedence mean my assets transfer through probate?

## TSP's order of precedence

- No** {
1. Your spouse
  2. If none, to your child or children equally, and to the descendants of deceased children
  3. If none, to your parents equally or your surviving parent
- Yes** {
4. If none, to your appointed executor or administrator of your estate
  5. If none, to your next of kin, who is entitled to your estate under the laws of the state in which you resided at the time of your death



# Understanding Beneficiary Designations



## Can I name my estate as beneficiary?

### Yes, but in many cases it's not the best thing to do

- Turns a non-probate asset into a probate asset
- Possible adverse tax consequences
  - TSP only permits lump sum, taxable (traditional TSP) distribution



# Understanding Beneficiary Designations



## Can I name my trust as TSP beneficiary?

- Yes, but should you?

## Should have specific estate planning objective

- Beneficiary is minor
- Blended family
- Complex beneficiary distribution structure
- Control money from the grave

## Beware of land mines

- Income tax issues
- Designated versus non-designated status
- SECURE Act



# Thrift Savings Plan



## Will my TSP beneficiary be required to take a taxable lump-sum distribution?

- Depends on the type of TSP participant

### Two types of TSP participants

- TSP participant
  - Federal employee/retiree
- TSP beneficiary participant
  - Spouse of a TSP participant

**Similar in name but treated very differently!**





## TSP beneficiary payout options

- TSP participant dies
  - Spouse as beneficiary
    - TSP will be transferred into a beneficiary participant TSP account
      - May transfer to own IRA
  - Non-spouse as beneficiary
    - Lump-sum distribution, either
      - Paid directly to beneficiary (taxable if traditional TSP), or
      - Transferred to inherited IRA\*

\*TSP only allows a lump-sum distribution if beneficiary is an estate





## TSP beneficiary payout options

- TSP beneficiary participant dies
  - Spouse as beneficiary
    - Lump-sum distribution
      - Taxable (traditional TSP)
  - Non-spouse as beneficiary
    - Lump-sum distribution
      - Taxable (traditional TSP)

**Lump-sum distribution is the only option for a beneficiary of a deceased TSP beneficiary participant**

## Important document to read

- Your TSP Account: A Guide For Beneficiary Participants

[www.tsp.gov/publications/tspbk33.pdf](http://www.tsp.gov/publications/tspbk33.pdf)



# SECURE Act



## How does the SECURE Act impact my TSP beneficiaries?

### TSP beneficiary payout options will likely remain the same, however

- The SECURE Act changed the distribution rules for most beneficiaries maintaining an inherited IRA





## Ten-year rule replaces Required Minimum Distribution requirements

- No Required Minimum Distribution (RMD) requirements
- Entire inherited account must be liquidated by end of tenth year
- Certain beneficiaries are *excluded*
  - Spouses
  - Disabled or chronically ill
  - Beneficiaries less than 10 years younger than original IRA owner or participant
  - Minor children of original IRA owner or participant
    - RMDs until age of majority, then 10-year rule applies

# Resources



## NARFE's resources

- Be Prepared for Life's Events (F-100)
- *NARFE Magazine* columns
  - Should You Rely on the TSP's Order of Precedence? (February 2020)
  - SECURE Act columns (March, April and May 2020)
  - Dealing with Incapacity (April 2019)
  - What Happens to Your TSP After You Die? (October 2019)
- Webinars
  - The SECURE Act: A Retirement and Estate Planning Game Changer (7/30/2020)
  - Estate Planning for Feds (12/12/2019)





## TSP's resources

- [TSP-583 – “Important Tax Information About Thrifts Savings Plan Death Benefit Payments”](#)
- [TSP-776 – “Tax Information About TSP Withdrawals and Required Minimum Distributions for Beneficiary Participants”](#)
- [TSP-3 – “Designation of Beneficiary”](#)
- [TSPBK33 – “Your TSP Account: A Guide for Beneficiary Participants”](#)

## OPM's resources

- [Federal Employees' Group Life Insurance Handbook](#)
- [SF 2823 FEGLI beneficiary form](#)
- [SF 2808 CSRS beneficiary form](#)
- [SF 3102 FERS beneficiary form](#)



# Thank You!

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