

Dear estate planning professional:

If you own a pet, or you have any client who owns a pet, you must buy immediately, read tonight, and implement tomorrow *Who Will Care When You're Not There?* by top estate planner and best-selling author Robert Kass, Esq. and a colleague. Well written like all Bob's stuff, this book tells you what you need to put in place via your estate plan to provide for your family pet. It includes a guide to all 50 states' laws on "pet trusts" plus forms and everything else you need to take care of this often-overlooked step. \$24.95 on Amazon.com. For a picture of me reading the book with my dog, visit [www.ataxplan.com](http://www.ataxplan.com) ("What's New").

I've made the "Ancient History" outline free at [www.ataxplan.com](http://www.ataxplan.com). That's the outline that contains all the OLD obsolete rules that are no longer applicable—unless your client is "grandfathered" (e.g., clients with a TEFRA 242(b) election) or you are trying to reconstruct minimum distributions from a pre-2002 year.

Savvy estate planning professionals rely on Steve Leimberg's e-newsletters (*Estate Planning; Employee Benefits; Asset Protection; Charitable Planning*; etc.) to get top practitioners' insights on the latest cases, legislation, and IRS activities, and for those it's well worth the price. Then every once in a while the newsletter also brings us something "priceless," like Howard Zaritsky's article on "Why you should NOT do 'what the client wants.'" Howard writes not only as a nationally recognized speaker, author, and estate planning practitioner but as a regular expert witness in malpractice cases against estate planning lawyers. Guess what: "But the client wanted it that way!" is NOT a defense in a malpractice case. Every estate planning lawyer (especially the young new anxious-to-please-clients estate planner) should read and memorize this article. Subscribe to Steve's newsletters at [www.leimbergservices.com](http://www.leimbergservices.com) (\$28 per month for as many newsletters as you want) or use your one-time-free visit to read Archive Message #1857 (Aug. 2011).

Until the next issue,

Natalie B. Choate

## My Pet Peeves

I welcome questions from my readers and seminar-attendees. The right way to start a question is “I read your book and...” I like to reserve the Q&A time for the stuff you can’t find, don’t understand, and/or disagree with in *Life and Death Planning for Retirement Benefits*. As a courtesy please include your full contact info when emailing me (see [http://www.ataxplan.com/contactUs/contact\\_us.cfm](http://www.ataxplan.com/contactUs/contact_us.cfm)). For best results, don’t use abbreviations I may not recognize, and do specify details such as the participant’s age, the type of retirement plan, the date of death, the beneficiary’s age, etc. And here are some hints about how NOT to ask questions (true examples from my files):

- “I would like to buy two hours of your time.” Sorry, I’m not a parking meter.
- “At my boss’s request, could you explain this point...” If you’re too busy to ask me the question yourself, I’m too busy to answer it.
- PLEASE PROOFREAD your message so I don’t have to translate it (following is verbatim a question I received): “If H transfers a H [sic] to a QPRT, and after the term the home will reaming [sic] in the trust, ...can he deductible [sic] the real estate taxes?”
- Finally, the ultimate incomprehensible question I received this year: “Should a person with a Revocable Living Trust with special needs provisions designate the Trust as the beneficiary of that trust?” Ok, I give up, WHAT are you talking about!!!!

But most of my **wonderful readers and seminar attendees** do not commit these solecisms. I love (and learn from) the questions. Here’s a recent good one that just fits in this space:

**Question:** An IRA custodian is refusing to accept a beneficiary designation to “John Doe Family Trust—provided no distribution shall be made to any person older than my oldest child.” The participant’s attorney recommended that format, as “insurance” that the IRA would qualify for a stretch payout. Is the IRA custodian’s refusal appropriate?

**Answer:** Yes. The IRA custodian is right; it can’t enforce the condition this lawyer is trying to add. The IRA provider will cut checks to the trust, as the named beneficiary; the IRA provider cannot somehow prevent the money from going to “older” beneficiaries named in the trust. When a trust is named as IRA beneficiary, and the client wants the trust to qualify for a “stretch” (life expectancy) payout, the *trust instrument* must be drafted correctly to qualify as a “see-through trust” under the IRS’s minimum distribution trust rules. The trust either does or doesn’t qualify; it’s up to the attorney to draft the trust correctly so that it DOES qualify. If the trust instrument is defective in this regard, throwing “insurance language” into the beneficiary designation will not save you.

Since 1995, I have fielded thousands of questions from accountants, estate planning lawyers, financial planners, and investment advisors about IRA and retirement plan distributions. As a result, *I know what you need to know*—and I’ve provided it in the latest edition of *Life and Death Planning for Retirement Benefits*. See details in the enclosed flyer.