

Should my Health Savings Account (HSA) be part of my Trust?

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If you have an HSA or MSA (medical savings account) there is a possibility that funds might be in the account when you die. How do you plan for the distributions of those funds? In terms of estate planning these accounts are like a hybrid.

While you are alive, the account functions like an ordinary bank account except that you can only make withdrawals for qualified medical expenses. Upon your death, however, the account is treated more like a retirement account.

If you have a living trust, your question should be how do you deal with this issue. First, be aware that you cannot name the trust as the owner of the account. What you can, and should do, is name one or more beneficiaries to receive the balance of the account when you die.

How you do that is a function of your intentions, your marital status and the size of your estate.

- If you're married and your estate isn't taxable, which now is true for almost everyone who has an HSA or MSA, then the beneficiary should be your spouse unless there is some other reason not to do this. If there is anything left in the account at the time of your death and your spouse, as the primary beneficiary, can chose to treat the account as his or her own HSA or MSA. This avoids having the balance of the account included in your taxable income on your final income tax return and allows your spouse to use the account for their own qualified medical expenses.**
- If you're married and your estate is taxable, then you should name your Revocable Living Trust as the primary beneficiary of your HSA or MSA. This will insure that your separate estate tax exemption can be used to fund the AB Trusts created under the terms of your trust for the benefit of your spouse. The fair market value of the account will be included in your final income tax return less any qualified medical expenses paid in the year after your death.**

- **If you're in a second or later marriage, then you should consider naming your children or other beneficiaries as the primary beneficiaries of your HSA or MSA. This will insure that the account passes to your chosen beneficiaries. Keep in mind though that the value of the account that they received will be included in their taxable income (less any qualified medical expenses as above).**
- **If you're single, then you have two options for your primary beneficiary: your Revocable Living Trust or individual beneficiaries. If any of the beneficiaries of your Revocable Living Trust are minors, then it makes sense to name your trust as the primary beneficiary. That insures that the account doesn't become subject to a court-supervised guardianship on behalf of a minor.**