

Protecting Your Assets and Heirs in a Blended Family

By Jean A. Dorrell, CEP

Here are some practical measures to take to make sure your heirs get theirs while your spouse is also protected.

Merging two families and finances inevitably brings challenges. A common concern among blended families is how to divide assets so that all children are included fairly after the death of one or both spouses. How do you maintain fairness, be impartial and get along with your spouse all at the same time?

One option is to set up a revocable living trust. A revocable living trust ensures that the trust becomes irrevocable at the death of the first spouse. Meaning, in the case of an unexpected death, whatever is written in the trust before death stays that way after death, protecting the heirs.

Also, there's the age-old question of what happens to the house. If the home belongs to the husband and he passes first, are his kids going to kick the wife out? Having a trust protects the surviving spouse with a life estate in the home. Some states (10 to be exact) will allow a husband or wife to leave a life estate without a trust. This is created by using transfer-of-death methods with the real estate and the county clerk's office. This is a simple and inexpensive way to protect a spouse's interest in a shared home.

What about IRAs? Consider an example of someone who has toyed with getting married to his long-time girlfriend. His dilemma? He wants his large IRAs to go to his daughters, not his spouse. He isn't trying to cut the spouse out altogether, he wants to "gift with strings." He wants his spouse to get the income, but the children to get the principal when she dies. Of course, from a tax standpoint, it is always better for the IRAs to pass to the spouse instead of the children because of the free spousal rollover available in the current tax code. Therefore, it's suggested that he let the IRAs "roll over" tax free to his new

wife and that he use a restricted beneficiary form to "gift with strings" by having only the income go to her. Restricted beneficiary forms are available using annuities, a fixed sum of money paid to someone each year, and most insurance companies offer them. The insurance company pays the wife the income and uses the annuity to guard the principal until she dies, when it can then be passed to his children. Annuities are the best way to ensure the principal stays intact. Annuities also offer the restricted forms and most companies provide this at no charge to the owner or beneficiary.

In this person's case the husband is also pursuing Roth IRA conversions at a partial rate. Roth IRAs are individual retirement accounts allowing a person to set aside after-tax income up to a specified amount each year. This keeps his income tax bracket down and will allow both the principal and income (going to the new spouse) to be tax free. The growth inside the Roth IRA annuity will also be tax free.

Another item to consider when leaving money to your heirs is a nasty in-law "outlaw." You know the kind—they are already counting their chickens before they hatch, so to speak, waiting for the other shoe to drop. How do you protect your child's share ensuring that the in-law outlaw doesn't get any? Again, using annuities. Most states provide very good creditor protection with annuities, which protects your child in the case of divorce too. If and when they finally wise up and divorce that jerk in-law, the money you



leave to your child through the annuities can't be touched (in most states).

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