

4 estate planning techniques for blended families

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Today, it's not unusual for a family to include children from prior marriages. These "blended" families can create estate planning complications that may lead to challenges in the courts after your death.

Fortunately, you can reduce the chances of family squabbles by using estate planning techniques designed to preserve wealth for your heirs in the manner you want, with a minimum of estate tax erosion, if any. Here are four examples:

1. Will. Your will generally determines who gets what, when, where and how. It may be combined with "inter vivos trusts" established during your lifetime or be used to create testamentary trusts, or both. While you can include a few tweaks for your blended family through a codicil to the will, if the intended changes are substantive — such as removing an ex-spouse and adding a new spouse — you should meet with your estate planning attorney to have a new will prepared.

2. Living trust. The problem with a will is that it has to pass through probate. In some states - but not, for example, in New Jersey - this can be a costly and time-consuming process. Alternatively, you might transfer assets to a living trust and designate members of your blended family as beneficiaries. Unlike with a will, these assets are exempt from probate. With a revocable living trust, the most common version, you retain the right to change beneficiaries and distribution amounts. Typically, a living trust is viewed as a supplement to — not a replacement for — a basic will. And, unlike a will, a living trust is not a public document available to anyone who wants to look at it - information in a living trust can be kept private and confidential from the prying eyes of outside parties

3. Prenuptial agreement. Generally, a "prenup" executed before marriage defines which assets are characterized as the separate property of one spouse or community property of both spouses upon divorce or death. As such, prenuptial agreements are often used to preserve wealth for the children of a first marriage before an individual enters into a second union. It may also include other directives, such as estate tax elections, that would occur if the marriage dissolved. Be sure to investigate state law concerning the validity of your prenup.

4. Marital trust. This type of a trust can be customized to meet the needs of blended families. It can provide income for the surviving spouse and preserve the principal for the deceased spouse's designated beneficiaries, who may be the children of prior relationships. If certain tax elections are made, estate tax that is due at the first death can be postponed until the death of the surviving spouse. However, there are many factors that must be weighed before deciding whether or not to use a marital trust - it's not a one-size-fits all solution for every blended family. For example, does the surviving spouse have sufficient assets in his or her own name to live on for the rest of his or her life? If the answer is no, an outright disposition to the surviving spouse of all or a portion of the decedent's assets might be a more suitable choice than placing all of the decedent's assets into a marital trust. In addition, does the decedent have sufficient income-

producing assets funding the marital trust to ensure sufficient income for the surviving spouse to live on for the duration of his or her life? If not, a marital trust may not be appropriate in that situation. Furthermore, how long have the spouses been married? For spouses that have been married a very long-time (e.g., 20+ years), there may be less need for a marital trust than there would be for spouses that only have been married a short-time. Finally, are the decedent's own children or other designated beneficiaries wealthier in their own right than the surviving spouse - in other words, do they have their own sources of wealth due to their own success? If so, it may be more appropriate for all of a portion of decedent's assets to be distributed outright to the surviving spouse, particularly if he or she needs the money to live on for the rest of his or her life, than to place it in a marital trust for ultimate distribution to the deceased spouse's already wealthy beneficiaries.

These are just four estate planning strategies that could prove helpful for blended families. You might use others, or variations on these themes, for your personal situation. Please consult with us to develop a comprehensive plan.

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