

Estate Planning for Blended Families

The definition of family has evolved in the United States over the last several generations. Today, the traditional model of a long term marriage between a man and a woman and their children represents only 20% of American families, according to “LoveFamilyMoney,” a 2014 study funded by Allianz. The more common family structure of today is a blended family as we have witnessed a divorce rate in the United States exceeding 50%.

Blended families usually involve married couples where one or both spouses have children from a previous marriage. Surely you remember “Yours, Mine and Ours,” a movie that was originally produced in 1968 and remade in 2005. Among the routine life circumstances highlighted in the movie, blended families can also face complex estate planning challenges due to issues that can arise between spouses or between children and their parent and step-parent.

Typically, individuals in blended families want to provide for their current spouse as well as the children from their previous marriage. In some situations, they may also want to provide for the children from their spouse’s previous marriage. This presents an opportunity for advisors to set themselves apart by providing estate-planning solutions designed to meet the needs of today’s blended family. In a blended family, estate-planning challenges may include the following:

- Potentiality for children to be disinherited
- Delays in child’s receipt of inheritance until after the death of the step-parent
- Desires to protect assets from former spouses
- Desires to protect beneficiary’s inherited assets from future divorcing spouses.

Family Structure and Initial Conversations

It is essential for an advisor to start the planning process by mapping out the family structure so they can clearly understand the implications of various options.

Next, advisors should try to create an environment that encourages an open dialogue around personal topics in order to present customized solutions that go beyond investment portfolios. Talk about previous marriages, children/stepchildren, and anyone else who might make a claim when your client passes away. Topics should include, but are not limited to the following:

- Tax issues
- Retirement planning
- Support obligations to previous spouse(s) or children
- Education-funding options
- Parental expectations and responsibilities
- Heirs’ personalities and money management skills
- Heirs’ spouses, relationships and children
- Substance abuse issues or history

- Premarital and marital agreements
- Inheritance planning and wishes
- Living arrangements for when first spouse passes
- Diminished capacity decisions
- Beneficiary designations.

Estate Planning Strategies to Consider

Estate planning for blended families will most likely involve the use of a trust to spell out the disposition of assets and create an asset protection strategy to protect beneficiaries from potential future creditors and predators. We describe three of the most common trust scenarios below. Please discuss your client's particulars with an estate-planning attorney to get more specific ideas and advice.

One common trust scenario in blended families is when a husband sets up a living trust and names himself as trustee during his lifetime. Typically the trust says that his wife receives income during her lifetime and the remainder of the trust goes to his children after her passing. On the surface this may look like a simple solution, but issues can arise when it comes to naming the successor trustee. Who will take control when the husband passes? Often the husband will name his surviving spouse or one of his children as the trustee without really considering the consequences. The wife and the children often have conflicting interests; the wife needs income and the children want growth. This may cause the wife to make an investment decision that could leave the children with very little, or if the a child is trustee, it may leave the wife with very little income. For that reason, it is important to consider a professional third-party trustee who does not have a personal or financial interest in the family.

A second trust scenario involves using an Irrevocable Life Insurance Trust (ILIT) designed to provide for children/stepchildren with life insurance proceeds and to use the remaining estate to provide for the spouse. The client gifts money to the ILIT, then the trustee of the ILIT purchases a life insurance policy and pays the premiums with the trust's funds. ILIT's offer several major advantages: they provide liquidity to the overall estate from the income tax free death benefits; the death benefit is not included in the client's overall taxable estate; and they provide for the children in an asset-protected trust.

A third scenario involves the use of a Qualified Terminable Interest Property Trust (QTIP). With a QTIP, the will or revocable trust of the spouse who dies first gives the surviving spouse the right to receive income earned from assets held in trust. This income interest has the effect of deferring the estate taxes on the trust's principal until the death of the second spouse. In most cases, a QTIP trust is drafted as part of a larger estate plan. It is usually desirable to leave assets in trust to protect the assets from creditors of the beneficiaries, including future divorcing spouses. Trusts that hold assets for multiple generations, frequently referred to as dynasty trusts, are often recommended by estate planning attorneys.

A properly drafted trust will handle the disposition of financial assets and personal property. Typically, a trust and a will work collectively; a will is still needed to ensure that assets not titled in the name of the trust are transferred according to your client's wishes. This is commonly referred to as a pour-over will. Additionally, only a will can name a guardian for minor children under the age of eighteen.

By taking steps to include blended families in your estate planning strategy you can set yourself apart from the competition while helping your clients reach their estate planning goals.

To learn more send us an email at info@premiertrust.com or give us a call at 702-577-1777