

# Navigating Estate Planning for Blended Families

By Philip Herzberg, CFP®, CTFA, AEP

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*Philip Herzberg, CFP®, CTFA, AEP, is a lead financial adviser for Team Hewins, LLC, a fee-only financial planning and investment management firm in Miami and Boca Raton, Florida, and California. He utilizes his expertise to help clients implement tax-efficient*

*investment, retirement, and estate planning strategies. He is past president of FPA of Florida, past president of FPA of Miami, and past president of the Estate Planning Council of Greater Miami.*

**A BLENDED FAMILY** brings together children from previous relationships, assets, and, usually, different family values and cultures. More than 50 percent of all Americans have either been or will be included in a blended family during their lifetimes.<sup>1</sup>

Blended families can face complicated estate planning challenges. Issues can arise between married couples or among children and their spouses. Frequently, parents in blended families desire to leave a legacy for the spouse as well as the children from the prior marriage. They sometimes also want to appropriately provide for the children from their spouse's previous marriage.

It can be difficult to navigate the complexities

of these various relationships, and the death of a spouse can create, as well as compound, financial issues. Emotions around decisions are even more intensified when clients are dealing with the competing interests of their own children, stepchildren, and a new spouse. The key to minimizing stress on your clients' family members and heirs is a carefully considered estate plan that makes it possible to honor their spouse and provide an inheritance that is protected for their natural children.

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## Considerations in the Planning Process

Guiding your clients to participate in family conversations early in the process can better prepare everyone for what may happen in the future. What steps can you, as a planner, take to help maintain harmony?

1. Encourage your clients to clearly communicate the reasoning behind their decisions to family members. It is important for them to have a discussion with family members on crucial topics, such as guardianship, long-term aspirations, finances, and contractual obligations.
2. Ask your clients to compile a list of individuals they want named in their estate planning

documents, including individuals who can serve as agents during their incapacity and upon their death.

3. Advise your clients to think about whom they wish to inherit their assets and possessions. How much do they intend each party to receive? Be sure your clients account for the financial needs of surviving spouses, young children, and other dependents.

Most importantly, your clients need to be transparent with their professional advisers and family about the rationale behind their decisions. If relations with specific family members and former spouses are too strained to have such conversations, you should verify that the reasoning behind your clients' estate planning decisions is clear in the estate planning documents and with their qualified estate planning professionals.

### **Blended Family Matters**

Get to know the blended family's unique needs by utilizing a comprehensive estate planning checklist in tandem with in-depth interviews during the discovery process. Determine priorities to best facilitate your planning.

Estate planning challenges in a blended family can include:

- The possibility for children to be disinherited.
- Delays in the children's receipt of inheritance until after the death of their parent's spouse.
- The need to protect assets from former spouses.
- Disputes over division of authority or responsibility.

Consider using a prenuptial or postnuptial agreement to keep assets separate and to outline support obligations to a previous spouse or children. Work with legal counsel to assess and apply state laws to formulate a marital agreement that properly spells out blended family issues and achieves your parties'

intended dispositive goals. Familiarize prospective spouses with the pertinent state provisions, so they can protect the inheritance rights of significant assets, such as a vacation home or business, for their children.

Most importantly, you should instruct remarried couples, who may also have additional children, to update beneficiary designations on retirement accounts and insurance policies. Be mindful that these beneficiary designations supersede the provisions of wills or trusts if the documentation supporting the accounts and policies is inconsistent. In some instances, federal or state laws may require spousal consent if the primary beneficiary is anyone other than the current spouse.

Appointing spouses as beneficiaries of life insurance and retirement plan accounts may be a predicament with second marriages, since spouses as beneficiaries can later select anyone they want as new beneficiaries to inherit the proceeds, bypassing blended family children. Think about designating a trust as beneficiary for these to safeguard how the proceeds are divided up in a second marriage. Remember to have your clients update legal directives, such as durable power of attorneys, to be certain that it is their current spouse and not their former one who oversees making financial decisions in the event of incapacity.

Finally, be sure that spouses in second or subsequent marriages communicate any of these modifications to family members and other loved ones who will be affected when updating living wills, durable powers of attorney, and healthcare directives for medical decisions.

### **Helpful Estate Planning Strategies**

Are there family heirlooms, such as jewelry and photos, that your remarrying clients would like their natural children to have upon their passing?

Avert a potential contestable situation by engaging an estate planning attorney to devise a suitable blended family estate plan for these personal assets. For clients who would like to see family members enjoy personal assets while alive, you may suggest they give away family heirlooms during their lifetime, so they can supervise and enjoy the passing down of these memorable pieces. This process may help prevent a subsequent free-for-all amongst family members over heirlooms.

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With appropriate legal advice, you may help your clients select a professional trustee for a long-term discretionary trust (LTD trust). This unrelated trustee, who is flexible to the evolving needs of the trusts, can administer the inheritance for blended family children. You can manage investment and interpersonal trust intentions by applying spend-thrift terms for these blended family children to protect them from ill-conceived financial choices, including risky investments or reckless spending.

Evaluate the benefits of designing a bloodline trust to maintain maximal control for each child in your clients' blended family unit and to keep funds with his or her descendants. You can arrange for a bloodline trust to protect the child's inheritance from possible creditors and lawsuit claimants in the event of a child's future divorce, lawsuits, and bankruptcies.

Alternatively, an estate planning strategy you can recommend to protect a specific inheritance amount for blended family children is an irrevocable life insurance trust (ILIT). Utilizing life insurance to fund the inheritance may prevent the remarried partner from having to dip into the expected pools of assets available for the other spouse's natural children or the children from the current relationship. You can also leverage an ILIT to provide the liquidity a family may need to cover taxes on an estate consisting of relatively substantial illiquid assets, such as real estate or closely held businesses. Seek the guidance of qualified estate and tax planning professionals to discuss any possible gift tax ramifications related to funding the payment of life insurance premiums.

Consider using a family limited partnership (FLP) or limited liability company (LLC) comprising family members to distribute assets, such as real estate and business interests, to children and their bloodline descendants. If an FLP or LLC is properly structured, you can shield a married couple's blended assets from the claims of their previous spouses, as well as their children's spouses, former spouses, and potential creditors.

### **Resolving Age and Wealth Differences**

Large age disparities between remarried spouses can manifest planning problems, including the application of special rules for computing the retirement plan minimum distributions when the participant is more than 10 years older than the new spouse. If the younger spouse is close in age to the elder spouse's biological children, the kids may not want to wait for the younger spouse to die before receiving most of their inheritance.

Disentangle this blended family issue by utilizing a qualified terminable interest property (QTIP) trust to provide regular income for a spouse while preserv-

ing principal for the children. A unitrust is another estate planning strategy you can employ to give the surviving spouse a set percentage of the trust's assets, rather than only the investment income.

Similarly, wealth differences in remarried spouses can create intricate estate planning issues in blended families. Consider planning for disparities between second spouses by giving a non-owning surviving spouse the right to live in a life estate, while ensuring that the residence is distributed to the owner's natural children upon the individual owner spouse's death. Be aware that the home will revert to the owner's adult children or other designated beneficiaries upon the survivor's subsequent death.

Guide clients who choose this strategy to attach certain conditions to the life estate, such as an obligation on the part of the surviving spouse to pay the home's taxes, insurance, and maintenance expenses. Provisions should also be made relating to whether the property can be rented or sold, as well as who is entitled to the rent or sale proceeds.

A surviving spouse, without an estate plan, may not have adequate financial resources to continue to live comfortably when a deceased partner leaves most of the family assets to his or her natural children. Educate these surviving spouse clients that the United States enables them to claim a statutory elective share amount of the deceased spouse's estate paid from the assets left to the children. To avoid possible blended family dilemmas, you can have each remarrying spouse sign a marital agreement outlining how assets will be distributed in accordance with their wishes. ■

## Endnotes

1. Oppenheimer & Co. Inc. 2021, April 27. "Estate Planning for Blended Families." [www.oppenheimer.com/news-media/2021/insight/april/estate-planning-for-blended-families.aspx](http://www.oppenheimer.com/news-media/2021/insight/april/estate-planning-for-blended-families.aspx).



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