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Yours, Mine, and Ours Estate Planning for Blended Families

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Estate Planning for Blended Families

Every family is one-of-a-kind, following its own unique path and writing its own special story. However, if you are dealing with the complications of a “blended family,” know that you are not alone. In the U.S., approximately 40% of families are blended.*

What is a “Blended” Family?

A blended family, also referred to as a “stepfamily,” is generally defined as any household in which one or both spouses have children from previous marriages, but also may be extended to include:

Families with children whose spouses have children from a previous marriage

Families with children who are in second or third marriages and who have children from previous marriages

Families that include a stepparent, stepsibling, or half-sibling

While every family can benefit from a well-considered estate plan, estate planning is especially important for those with blended families because as family structures become more complicated, so does the process of transferring wealth. To ensure that your wishes for your legacy are met, you need to understand your estate planning challenges, and your options.

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*Marriage, Family, & Stepfamily Statistics, Smart Stepfamilies, updated 2021

Estate Planning Challenges

The purpose of an estate plan is to ensure that the vision you have for your legacy is carried out. However, given potentially competing interests, hurdles can arise for blended families that make realizing your intentions more complicated. For example:

- **Your children may end up disinherited.**
Under most estate plans and state intestacy laws, all assets go to the surviving spouse. So, if you remarry and do not update your estate plan, your children from a prior marriage can be disinherited.
- **Children must wait for the death of their stepparent to receive their inheritance.** If you remarry and leave your assets in trust for the benefit of your spouse, your children from a previous marriage will be forced to wait until their stepparent passes away to access your assets, if any assets remain. This may mean that they need to rely on the willingness of their stepparent to cover expenses like college or medical bills. Depending on the situation – like the need to pay for a nursing home – there may be nothing left for your children after the death of your new spouse.
- **You may unintentionally exclude beneficiaries.**
Forgetting to update estate planning documents can lead to assets going to the wrong beneficiaries or to new children being excluded from an inheritance. For example, if you remarry and do not update your estate plan, your stepchildren may be left with nothing after your passing. Similarly, beneficiary designations generally name specific people by name, so failure to update them after a divorce might cause assets to go to a former spouse or to omit new family members.

Achieving Your Desired Outcome

Every family is different and requires an estate plan customized to its needs. You do not want your assets to be distributed according to default state laws or old documents, which may be contrary to your wishes. Drafting estate planning documents that meet your objectives and ensuring they are kept up to date is particularly important for those in blended families. To achieve the legacy you envision, consider the following when setting up or reviewing your estate plan:



What might happen if you remarry and do not update your estate planning documents?

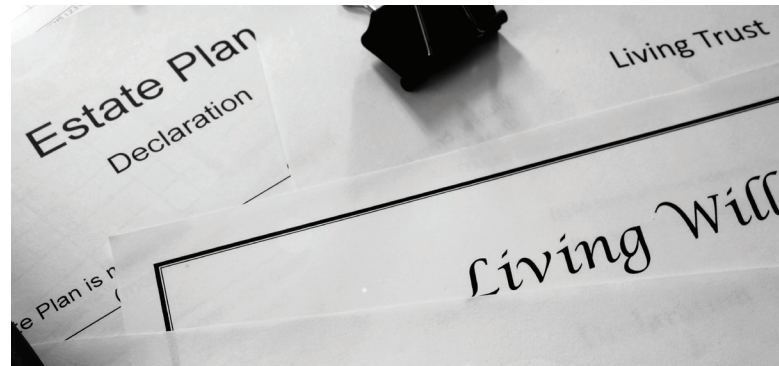
Upon your passing, all assets pass to your surviving spouse. Your spouse could remarry, causing all assets to go to the new spouse; leave all of the assets inherited from you to their children or new partner; or decide to remove your children from their will or trust.

Wills

A last will and testament is one of the most important estate planning documents you can prepare. It allows you to direct where your property will go upon your death and can include any member(s) of a blended family as a beneficiary. Your will is also the only place in which you can name a guardian for minor children. Your will also appoints the person who will be in charge of your estate, commonly referred to as an executor or personal representative. In a blended family, you may want to consider naming an uninterested third party as executor or personal representative to maintain family harmony. Reviewing your will is recommended after any significant life event, particularly those that end up reshaping your family circumstance.

Trusts

Often the complexities of estate planning in blended families are best handled through the creation of a trust. A trust is a legal agreement in which a fiduciary relationship is created when one party (the grantor) gives another party (the trustee) the right to hold ownership of certain assets and to manage them for named beneficiaries. Trusts play an important role in estate planning, holding the grantor's assets while they are alive and dictating how the assets are to be distributed upon the grantor's death. Unlike wills, trusts also have the advantage of avoiding probate proceedings. Most importantly, the ability of trusts to be customized to suit more complex family structures is what often makes them an especially attractive estate planning tool for blended families.



Some considerations for blended families to think about when creating and updating a trust include:

- Modifying the standard trust provisions for married couples (often referred to as the “AB Trust”).
 - The AB Trust is a revocable trust that provides that, at the death of the first spouse, two trusts must be created: Trust A and Trust B. Trust A is primarily for the benefit of the surviving spouse during his or her lifetime, while Trust B is generally for the benefit of both the surviving spouse and the grantor's children.
 - In the case of a blended family, the AB Trust can ensure that a surviving spouse will not have the option to disinherit the children of the deceased spouse from a prior marriage or to exert any control over the effectuation of the deceased spouse's intentions regarding their share (the B Trust) of the marital assets.
 - Blended families should also discuss with their trust attorney whether taking full advantage of the standard tax exemption strategy for AB Trusts is still appropriate in light of their more complicated family situation.

- Customizing bequests and/or trust provisions to include stepchildren, step grandchildren, and other members of a blended family.
- Adding generational trust provisions, if desired, to ensure that your assets are passed down to your blood relatives (children, grandchildren, great grandchildren, etc.). In doing so, you prevent non-lineal descendants – such as your spouse’s children or your children’s spouses – from inheriting the trust’s assets.
- If you created trusts as part of your estate plan prior to a divorce, remarriage, or birth or adoption of children or stepchildren, reviewing and updating those documents to ensure that they remain consistent with your intentions.
- Selecting a trustee/co-trustee. A trustee is charged not only with deciding which distributions are appropriate to be made from the trust, but also how to invest and preserve trust assets. Even more so than in the standard family, a disinterested trustee may be helpful to avoid conflicts of interest and the strain on family relationships caused by naming one or more family members or friends as a decision-maker.

Pre-nuptial or post-nuptial agreements

Communication is critical in any marriage, but especially so in one that creates a blended family. Signing a pre-nuptial or post-nuptial agreement can help reduce conflict and misunderstandings down the road. Such agreements typically outline each parties’ rights and responsibilities in the event of a divorce. But they may also establish the rights and obligations of the surviving spouse in the estate of the deceased spouse.

Healthcare and power of attorney documents

As part of your estate plan, you may have drawn up health care and/or durable power of attorney documents. The former document allows you to name a person to make medical decisions for you, while the latter allows you to select someone to manage your property should you become incapacitated. These documents, too, need to be reviewed and updated regarding who you select as your agents and power holders. For example, if you have not updated your powers of attorney after a remarriage, you may still have your former spouse or children from a prior marriage as your agents, which may no longer align with your wishes.

Beneficiary designation forms

Just as with your will and trusts, it’s important to regularly review the beneficiaries you’ve designated on your IRAs, 401k(s), life insurance policies, Transfer on Death (TOD), or other accounts where a direct beneficiary is named. Beneficiary designations take precedence over other legal documents in your estate plan with regard to the specific asset. Regardless of what a will or trust says, the asset goes directly to the primary beneficiary named. Keeping these designations up to date with your shifting family circumstances will ensure that your final intentions regarding your estate are met.

Deeds and ownership documents

In addition, as you draft your will and other estate documents, it’s important to take note of how your assets are titled. Property held with your spouse as a joint tenant with rights of survivorship passes automatically to your spouse upon your death and not according to the plan you may have expressed in your will. If you want to leave those assets instead to your children or stepchildren, they should be retitled solely in your name or in the name of your trust, making sure your will or trusts specify that the property will go to your children or stepchildren.

Wealth Planning Discussions in a Blended Family

For all families, having family conversations early and often on topics such as long-term goals, finances, and other personal commitments and obligations can go a long way toward managing expectations and preparing everyone for the future.

These conversations can be even more complex and important for blended families. It may be helpful to engage a trusted professional to help engage in and facilitate these difficult conversations. Not having these conversations can often lead to hurt feelings, feelings of betrayal, and family disharmony or dysfunction.

If face-to-face conversations are, for whatever reason, not possible or appropriate for your family, you could consider a letter of wishes or direction or explanation for your family. These letters are not binding and can't be used in lieu of estate planning documents. However, this letter can explain your thoughts and intentions to your family and can be left with an attorney or trustee to share after your passing.

Washington Trust Can Help

Also important is soliciting the help of trusted professionals who take the time to fully understand your family and financial circumstances and have the expertise and experience to guide you in the design and implementation of your estate planning strategies.

Your Washington Trust Wealth Advisor takes a holistic view of your family's finances to create a wealth plan that aligns with your goals and keeps you on track as your situation evolves. Your Advisor will also work with you and your trust and estate attorney to create trusts that address more complex family situations.

Connect with a wealth advisor today

Call 800-582-1076 or visit us at [washtrustwealth.com](https://www.washtrustwealth.com)





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