



Blended Family Estate Planning

The most common marital status today is neither “married, “single” “divorced”; it is “REMARRIED”. With so many re-marriages there is a higher incidence of clients having blended families (“blended family” defined as one where one or both spouses have children from a previous marriage). Estate planning for blended families can present unique challenges.

The interests of one spouse can conflict with the desire to provide for the other spouse’s children of a previous marriage.

Children of a prior marriage can be an integral and loving part of the new family relationship and treated by both spouses as if all are their natural offspring. However, there may be strains between the previous family and a new spouse. If all assets are left to the new spouse, the prior children may not be provided for as the deceased spouse would have wished. Since there may be no legally enforceable obligation for the surviving spouse to leave assets to the deceased spouse’s children, oral promises are ignored. On the other hand, if arrangements are made so that one spouse leaves assets for children of a prior marriage, therefore bypassing the surviving spouse, there may not be sufficient assets remaining to provide for the surviving spouse.

A common and informal way of addressing the issue within the family unit is to exchange oral promises between spouses. These oral promises are often problematic and raise issues as to enforceability. Even with harmonious blended families, lack of planning may lead to unforeseen difficulties. At a minimum, each spouse should have a Will that addresses the issues.

One type of an estate planning tool that provides for surviving spouses, and still protect a portion of the assets for the children of a prior marriage is the “Qualified Terminable Interest Property Trust”, or “*QTIP Trust*”. Such a trust can provide estate tax protection, generate income for the surviving spouse during his/her lifetime, and make the principal available under conditions set forth in the document. At the death of the surviving spouse, those assets could then be distributed among the mutual and/or prior children pursuant to the wishes of the previously deceased spouse.

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BLENDED FAMILIES CONT'D

There are other estate planning tools blended families can use. A written, enforceable mutual estate plan agreement can set forth the expectations of each spouse and can be enforced by family members. Or, additional life insurance can provide cash benefits to children of the prior marriage immediately upon the client's death rather than requiring the children to wait many years until the death of their step-parent.

Mutual life estates can assure that each spouse will have the right to remain in the marital household while assuring that each spouse's share will then pass to identified heirs.

With careful consideration, estate planning for the blended family can provide orderly, equitable and compassionate distribution of estate assets, while also minimizing or eliminating potential animosity between the surviving beneficiaries.

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