

“What keeps you up at night?”

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Do you have an inheritance problem?

By Nancy S. Hearne

Much is written about the business of making money but relatively less about the way we pass it on to our heirs. Transitioning wealth to the next generation is much more than just a tax problem. The issues are complex because people are.

Too often families grapple with legacy issues that do not arise from passing on too little, but from passing on too much. The greatest challenge is to prevent destruction of the individuals who inherit, as well as their families. Unfortunately, inherited wealth often causes tensions between husbands and wives, notably when only one spouse is the beneficiary of his or her family's wealth. Sometimes the legacy is large and moves the couple into a very high income tax bracket. Sometimes it is not enough to make the couple wealthy, but does provide enough support that they do not need to be financially independent. When dependency on a trust fund or grandparents' yearly gifts of tuition or medical payments for the couple's children becomes routine, the incentive to work can decline. When the “poorer” spouse doesn't hold a regular job or appears not to try to find one, the wealthier spouse, particularly if the wife, may perceive that her husband lacks the motivation that made the inheritance possible in the first place.

There is no one-size-fits-all solution to the problem. It requires good advice from counsellors who understand a couple's need to make work ethics and family values the underpinnings of any plan. It also requires honest conversations with parents to integrate both generations' planning so that the “affluenza syndrome” does not infect the family.

The best plans change over time as the people for whom they are created change. If a marriage is strong, and the couple creates their own wealth and encourages strong educational values, an inheritance may not spoil or destroy a family. If, however, the marriage begins to suffer from the expectation of a future inheritance, the parents should consider creating arrangements to control the timing and conditions of the legacy.

Some of these arrangements include:

- **Discretionary Trusts.** These trusts can limit access to income and/or principal of assets held in the trust. For example, the terms might provide that the trustee makes distributions for education, medical expenses, to start a business or purchase

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a home. If set up properly, the assets can be protected from creditors of the beneficiary, in the event of lawsuits, bankruptcy or divorce.

- **Dynasty Trusts.** Like discretionary trusts, dynasty trusts can limit access to income and/or principal. These trusts are also intended to encourage a legacy to grow and continue for very long periods so that the legacy is preserved for future generations.
- **Family owned business entitites.** Family limited partnerships and limited liability companies can be used to retain control over family businesses and investments for future generations. The agreements can be written to retain management within and limit distributions to members of the family.
- **Incentive Trusts.** These trusts can set standards for distributions that are based upon achievement. Examples include distributions if a child holds a full time job, completes a college education and achieves a certain grade level, or has a stable marriage. The terms are as varied as the concerns of the family, and it is important to build in flexibility to revise terms to be responsive to changed circumstances.

In addition, if the spouse with the inherited wealth wants to preserve an inheritance for children and grandchildren, that planning should be integrated with that of his or her parents.

There are many solutions to preserving both legacies and strong families, but without an understanding of a family's values and circumstances, even a plan that is sound for tax purposes and legally elegant may fail.

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