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Estate Planning 101: Inheritance Nightmares Cost Money, Love

Talking About Your Will: Heirs in a Mess Wish Their Relatives Planned Better Before Death

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May 24, 2010 —

"Where there is a will there is a war." It's that simple for Jean Argento, a 58-year old author who didn't speak to her mother for five years after a rift over a relative's will.

It's not just the content of the will that caused the rift; it's that the relative Argento's great-aunt told nobody but Argento that she had written Argento's mother out of it altogether and left her entire $250,000 inheritance to the daughter.

"I wish Aunt Evelyn had sat everybody down and said I'm changing my will, but she chickened out," says Argento, who asked to use a modified name to conceal her identity. She also blames herself for not warning her mother about the will, saying she wasn't brave enough to bring up such a "can-of-worms" subject.

Inheritance Lesson 1: Honesty, Transparency

Although Argento ended up sharing part of the inheritance with her mother and they are now reunited, she says the whole thing was a painful experience that they could have avoided if their benefactor had more thoroughly planned her estate.

Estate planning is one of the least understood, and most neglected areas of personal finance. Only 35 percent of adult Americans have a will, according to a Harris Interactive Survey for Lawyers.com.

Yet billions of dollars change hands through inheritance every year, and poorly planned transfers can waste money and hurt precious relationships. The first lesson to be drawn from Argento's experience, of course, is transparency.

Jason Smolen, an estate attorney at the firm of SmolenPlevy in Virginia, says while discussions about inheritance may be touchy, it's important to keep lines of communication open by discussing how assets will be divided and how the estate will be administrated. That said, it's OK to use one's own discretion when discussing specific dollar amounts.

Inheritance Lesson 2: Plan Ahead, Update Often

Communication, however, doesn't do anybody much good without a healthy dose of planning.

"If you want to leave it to chance, that's up to you," says Ryan Leib, vice president at Keystone Wealth Management, an advisory firm in Conshohocken, Pennsylvania. "But if you have something and you want it to go to certain people, you have to plan."

Update Inheritance Papers Often

Good planning doesn't just mean drawing up a will and hoping for the best. It means keeping up with changes in laws and updating documents after every major life event such as a move, divorce or death in the family. Leib suggests at least reviewing documents every five years.

Some of the updates might require quite a bit of attention to detail. That's what Marcia Brier, a public relations executive in Needham, Massachusetts, found out when she and her father, Benjamin Cohen, scrambled to update her mother Paula's inheritance as she lay on her deathbed.

After Paula Cohen unexpectedly became ill with a hospital infection, Brier kept nagging her father to move some of her mother's assets into a "credit shelter trust." By doing this, the family could bypass hefty federal estate taxes.

This is how it works: every American is allowed to bequeath a certain tax-free amount suspended this year but expected to be $1 million for 2011 to heirs. Because Paul Cohen's assets were held jointly with her husband and would pass on to him tax-free anyway (spouses are exempt from estate taxes), the family was about to waste an opportunity to use the exemption.

Families in those situations often move the assets of the ailing spouse into a "credit shelter trust," out of which they can be later transferred to any other family member without any estate tax penalties. However, Brier's father waited until the last minute to request the transfer of funds, and his wife died before the transfer was legal.

"My father tends to put things off and off, and of course we didn't know my mother was going to die so quickly," says Brier.

Marcia's husband, Ken Brier, an estate attorney who suggested the transfer in the first place, says the family's lack of foresight cost the heirs tens of thousands of dollars.

Inheritance Lesson 3: Think It Through, Again

Lack of foresight can be very expensive. But the wrong kind of foresight also leads to fiascos.

Richard Lang, an estate lawyer at McDermott, Will & Emery, says people often don't ask their heirs what they actually want out of the inheritance, which means they can become fertile ground for arguments. He cites vacation homes as a prime example.

Add Provisions to the Contract

"The problem with a vacation home is that generally the client likes it, but some or none of the kids like it," he says. In an effort to be fair, the parent will leave the home to his children in equal shares. But if one of the children doesn't even want to use the home, they might not be able to sell their stake to the other siblings, and may even be liable for the expenses of maintaining the property.

To avoid these kinds of conflicts, Lang suggests trying to accommodate heirs' wishes in advance for example, the child who doesn't like the home could receive a compensating gift instead -- or adding provisions to the contract that give parties a way to opt out.