Outright Gifts and Inheritances

The good the bad and the not so pretty facts about giving it away to your younger peeps.

We had a nice corner wood burning fireplace when I was a kid. It had beautiful white brick work, and sat nestled on the corner between the living room and dining room. One cold and rainy Saturday afternoon we were sitting around the open flame enjoying its radiant warmth when my mother noticed smoke in the room. Of course there is smoke, I thought, sitting on the floor next to the open flame. But she knew it was something more than our little comfort fire should have been producing.

Down the hall she scurried to my bedroom, with me in tow. As she opened the door, she was met by a wall of flames! Not easily intimidated, she ordered me into the kitchen to get jugs of water while she threw blanket after blanket on to the raging flames. That fire was no match for a single mom protecting her greatest asset. She subdued the flames, which had originated from my careless discarding of a lit match after igniting my kerosene lantern a few moments earlier.

One insurance claim and two months later, a shiny new hardwood floor adorned my bedroom, along with rebuilt walls, paint, fixtures and even furniture. I thought the whole experience was actually going my way rather well, when my mother moved in to the room herself, leaving the well-worn former master bedroom to me and my brother. Dang it.

I thought I had the new bedroom in the bag, but like a spendthrift child drooling over an expected inheritance, I was disappointed. So, as we lumber along discussing estate planning issues, we now take a look at gifts and inheritances a little more closely.

Outright gifts and inheritances

In considering all of the options available, the most straightforward approach to passing down wealth is to give it away during our lifetime. Among those who prefer this option, some enjoy seeing the benefits of those gifts during their lifetime, even though they relinquish all control over the asset. For others, this may not be an acceptable outcome. Still others worry about how those assets would be used and whether it would negatively impact the receiver's motivation to achieve success on their own.

When leaving assets to your children or grandchildren, it's important to first examine a few things:

1. A gift or inheritance could become matrimonial property. Matrimonial property claims may apply to assets left to children and to the income generated by these assets. (e.g. If your son deposits his or her early inheritance into a joint account with his or her spouse and then there is a marriage breakdown.) Therefore, children receiving these assets may want to keep them separate and not contribute them to the marriage.

2. Spendthrift beneficiaries. Some children may spend their inheritance carelessly or make poor financial decisions, without any planning for their own future. This is where ongoing communication and education around financial responsibility becomes so valuable.

3. Creditor claims. Some parents have concerns around exposing any gifted assets or inheritances to their children's creditors. There are solutions to this. Consult with a qualified legal advisor regarding any creditor protection options available to you.

Considering making some or all of your savings in to jointly held assets?

Potential Benefits:
- Simplifies administration of the estate
- Avoids probate until death of last surviving owner

Potential Risks:
- Enables the joint to take the jointly held assets before death
- May be claimed by creditors

• Precludes the use of certain estate planning tools (such as testamentary spousal trusts) because the assets do not flow through the estate.

Beneficiary designations

An additional method for wealth transfer that falls under the “simple” umbrella is through the use of beneficiary designations on registered plans, Tax-Free Savings Accounts and life insurance policies. The main benefit here is that assets pass directly to the beneficiaries without having to go through the estate. What’s important to keep in mind, however, is ensuring these designations remain updated and consistent with any designation made in your Will.

The paramount role of communication

Regardless of the approach or timing of the transfer, open and ongoing communication with family members is essential. For many, estate planning and wealth transfer discussions stir up feelings of discomfort. There may be strong emotions involved, but despite the potential discomfort in having these conversations, open dialogue among all those who are or will be included in the estate plan is crucial for two key reasons. First, it provides the valuable opportunity to educate children and grandchildren about financial responsibility and money management.

Second, it opens up discussion around why certain strategies have been used, giving the receiving generation a clearer idea as to why decisions were made, decreasing the likelihood for disruption to family harmony.

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