

# Overcoming Unique Complications of Blended Family Estate Planning

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**Mela Garber considers the unique complications of blended family estate planning and how to minimize the potential lack of consensus among children from a previous marriage and second or more marriages:**

In life only two things are certain: death and taxes. Estate planning for what will happen to wealth built over lifetimes is an exercise that must factor in these two

inevitable. This is especially true when it comes to blended families including children from previous marriages, which are quite common, as almost half of all U.S. marriages end in divorce.

Proactive and diligent planning to suit current family statuses and maintaining updated documents can mitigate many potential conflicts between family members, going a long way toward ensuring the smooth distribution of assets upon death.

Wills for married individuals commonly have a provision to establish a qualified terminable interest property (QTIP) trust, where all income is distributed to the surviving spouse and upon death of said spouse, the remainder of the trust is distributed to the children. This language can create a conflict in terms of satisfying, for example, the spouses from second or third marriages and children from prior unions. The children would most likely prefer trustees and money managers invest for future asset appreciation, while the surviving spouse would prefer maximizing income.

Testators can remedy this situation by choosing a unitrust status for the QTIP trust, where the spouse receives a specific percentage of the trust's market value, recalculated annually, while the children collect the remainder of the trust on the spouse's passing. Electing a unitrust regime will allow advisors to invest the assets for total returns and will satisfy present and future beneficiaries' interests.

In addition to setting up a QTIP Trust, the testator can create an irrevocable life insurance trust for the benefit of the children. The payments of the premium could be sheltered from gift taxes by having withdrawal rights incorporated in the trust document, thereby utilizing the annual exclusions to minimize the taxable gifts. Upon the death of the testator, the life insurance proceeds will be paid to the trust for the children's benefit. This plan will eliminate tension between the current spouse and children from the previous marriage because only the children have interests in the trust and the spouse will not.

Careful consideration should be given to [naming trustees](#), especially for the trusts that have beneficiaries with conflicting interests, such as a current spouse and children from a prior marriage. A good option is to name an independent trustee, such as an attorney or an accountant, who does not have any vested interest in the

trust and knows the rules of administration of the trust.

Another potential area of conflict is between the will and beneficiary designations on any accounts that will pass upon death. Thus, upon death all assets would go to the beneficiary of, for example, a retirement account or a life insurance policy, even if the will names other parties. Hence, beneficiary designations should be updated after a divorce or other life-changing event to reflect the current situation. Testators can name multiple primary beneficiaries and allocate percentages of assets to be distributed to each beneficiary to avoid conflict between children from multiple marriages and/or spouses.

Prenuptial agreements make blended family estate planning significantly easier. In cases where a prenuptial agreement is present, wills need to be amended to align with any pre- or post-nuptial agreements in place.

Any discussion of estate planning for blended families should begin with a conversation with an estate planner on what the client envisions for distribution of their assets after they pass. Most of the time, clients do not bring children or even spouses into conversations with planners; however, it could be beneficial to facilitate clear and honest communication between these parties.

In terms of children, the law stipulates that there is no mandatory amount or asset that should be left to children. Regarding spouses, unless a prenuptial agreement exists, decedents cannot completely disinherit their own spouses, with rules varying depending on the state.

The complications of blended family estate planning are many. But clear communication, updating documents regularly, and keeping a careful eye on any new tax law developments make journeys easier for decedents and their families. Moreover, although minimizing taxes is an important part of estate planning, individuals should consider this: Sometimes keeping the peace in the family means coughing up more in taxes.

[Read the original article from Bloomberg Tax.](#)