



# Estate Planning for Blended Families

Ex-spouses or former lovers are not typically a first thought when planning for the future, yet in instances where there are children resulting from previous relationships, these are necessary and often complicated considerations. Blended families are quite common, so it is important to align estate plans to best suit the current status of the family. Blended families form when parents have children from different marriages or relationships. With an assortment of family members, individuals need to be diligent in maintaining updated documents to avoid or mitigate potential issues.

To ensure a smooth distribution of assets upon death, beneficiary designations on retirement accounts and insurance policies need to be kept up to date. Assets go to the named beneficiary or beneficiaries regardless of what is written in the will. Therefore, problems can arise if individuals forget to change their beneficiary designations after remarrying. For example, if a parent has children from both a previous marriage and from a new marriage, the younger children must be added as beneficiaries in order for them to acquire assets. Since the primary beneficiary receives all assets even if there are contingent beneficiaries, naming multiple primary beneficiaries and designating percentages of each asset to each individual helps to avoid discrepancies. In cases where there is no beneficiary designated on a retirement account, the account will be paid to the estate within five years of the date of death.

Distribution of assets through trusts is another strategy for blended families. In establishing a trust, a grantor may want to set up a third-party trustee rather than a spouse or children to avoid conflicts of interest in the event of death. Typically, wills for married individuals have a provision to set up a Qualified Terminable Interest Property (QTIP) trust. QTIP trusts require mandatory distribution of all income to the surviving spouse. Most states define income as money received on investments (e.g., interest, dividends, royalties, and rent). After the death of a spouse, the remainder of the trust will be distributed to the children. This sometimes presents a challenge for trustees and money managers regarding the investments in the trust. Many spouses, especially those from second (or third, etc.) marriages, may not be as concerned about the long-term life of the trust, and instead might prefer to invest to maximize the income, whereas the children from previous marriages would prefer that the trustees invest for future appreciation of the assets.

To avoid potential litigation in such conflicts, the testator may elect a unitrust status for a QTIP trust. This can provide distributions to a spouse of a specific percentage of the market value of the trust that is redetermined annually, and the children will receive the principal when the spouse passes away. Therefore, both current beneficiaries (spouses) and future beneficiaries (kids) benefit from investments for growth. Another option to avoid conflicts and potential litigation would be to create separate trusts for the spouse and the children. When a second spouse is close in age to the children from a previous marriage, this may be a practical option to ensure that the children see their inheritance.

Making these arrangements will help alleviate potential complications, but since a trust does not preclude a will, it is also necessary that the provisions of the trust be aligned with the will.

Documents that are not coordinated can result in unintended consequences and/or litigation. When an individual remarries, the will also needs to be rewritten to align with prenuptial and postnuptial agreements. This also helps in designating assets to children. While laws vary state by state, in New York, a spouse could claim elective share against marital assets if there is no prenup. In some states, individuals can disinherit their spouse. Keeping all documents up to date will help ensure the smooth execution of all estate arrangements.

Having good communication can also help to avoid complications or potential litigation in estate planning with blended families. After divorce, accounts need to be reviewed and when necessary, revised. A review of all provisions of trusts and wills helps to ensure that ex-husbands/wives or their relatives are not named as fiduciaries. Individuals may also need to re-establish a healthcare proxy to avoid an ex-spouse making critical healthcare decisions. Working with an advisor can help reduce the chance of undesirable circumstances and legal entanglement. Contact your Anchin Relationship Partner or Mela Garber, Principal and Leader of the firm's Trusts and Estates and Matrimonial Advisory Groups, for help with planning strategies and arrangements at 212.840.3456 or [info@anchin.com](mailto:info@anchin.com).



**Ehud "Udi" Sadan, CPA, CGMA**  
Leader  
[ehud.sadan@anchin.com](mailto:ehud.sadan@anchin.com)



**Jared Feldman, CPA**  
Leader  
[jared.feldman@anchin.com](mailto:jared.feldman@anchin.com)

**1375 Broadway, New York, NY 10018 • 212.840.3456 • [www.anchinprivateclient.com](http://www.anchinprivateclient.com)**