

Estate Planning After a Second Marriage

Provided by Steven M. Gronceski, CFP®, AIF®

Marrying again makes estate planning more involved. How do you provide for everyone you love? Should you provide for everyone you love? How do you arrange to transfer wealth in a way that won't hurt the feelings of certain heirs?

If you have not planned your estate yet, take inventory. Spend a half-hour and jot down the assets you own, major and minor. Who should own these assets after you die? Your spouse should do this, too – and you should talk about your preferences. It may not turn out to be the easiest conversation, but agreement now may preclude family squabbles and legal challenges down the line. (If you have a prenuptial agreement in place, you may have already discussed some of these matters.) You should also consider two scenarios – what happens if you die first, and what happens if your spouse dies before you do.

If you and/or your spouse have children from prior marriages, there may be some dilemmas for each of you. If you die, there is a real possibility that your current husband or wife will not elect to provide for your children from past marriages. So what might you do to prepare for that possibility? You might make a child the primary beneficiary of a life insurance policy, or set up a trust for your kid(s), or place certain real property under joint ownership with a child.

If you have already written a will, it will probably need revisions. They could be

considerable. You want to be extremely specific about which heir gets what; you need to state bequests convincingly, because the more convincing your bequest, the less ambiguity.

How up to date are your beneficiary designations? Out-of-date beneficiary decisions are an Achilles heel of estate planning. Be sure to review them; you may want to revise beneficiary forms for retirement plans, investment accounts, and insurance policies.

As you consider these revisions, pay particular attention if you have been divorced. Divorce may actually preclude you from changing beneficiaries in certain cases. Turn to a lawyer and show the lawyer a copy of your divorce decree; ask if revising your beneficiary designations will violate it. Should you be unable to make beneficiary changes to your life insurance policy, you may want to buy another one in consideration of your new spouse.

Take a look at irrevocable trusts. They can be used to provide for your spouse as well as your kids. Some people establish a separate property trust to provide for their spouse after their death while directing most or all of their real property to their children.

Alternately, parents create irrevocable trusts to direct assets to particular children. They are attractive estate-planning vehicles for a number of reasons. A trust agreement is a private mechanism for wealth transfer, while a will is a public



document (and some parents who have remarried would rather their will not be made public). Assets within irrevocable trusts are shielded from creditors, and also from inheritance claims of spouses of the adult children named as heirs. An irrevocable trust represents a “finalized” estate planning decision, one that ensures that particular assets transfer to a parent’s biological children. Irrevocable trusts are also rarely undone. It typically takes permission from beneficiaries (and a judge) to reverse them.

Those aforementioned pre-nups can play an estate-planning role as well. They allow you to designate personal assets (such as assets within a college savings account) for existing rather than future children. Post-nuptial agreements (similar to pre-nups, but drafted after a marriage) can also accomplish this. Some states do not view pre-nup and post-nup agreements as legally valid, however – and sometimes carrying out the terms and conditions of these agreements is up to a judge.

Be sure to consult legal & financial professionals. When estates become this complex, collaboration with professionals having a thorough understanding of estate planning and tax issues is essential. — *For additional information, you may contact Steven M. Gronceski at smgronceski@sfgweb.com or call 219-736-8902 ext 208.* ●

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