Inheritance Time Bombs *(And How to Defuse Them)*

Older Americans hold nearly two-thirds of the country's wealth: about $93 trillion in assets that could pass to younger generations. Whatever the size of the handoff in your family, these expert battle plans can help you avert disaster

By Laura Petrecca PHOTOGRAPHS BY ANDRE RUCKER

OH, THE THINGS some people will do over inheritance dollars. In the news on any given day, you're likely to find a juicy case involving inherited wealth, like Priscilla Presley's lawsuit last year contesting the will that left control of Elvis' estate to her granddaughter. Personally, I've seen once-close siblings sever ties after one received the family home as compensation for caregiving duties. I've even had a close call myself, when I asked my current partner of 12 years if he had updated his will after his divorce (he hadn't).

There's a reason inheritance strife is so common: Older Americans hold a large majority of America's personal wealth, much of which is likely to be passed on to younger generations. And no matter how rich or poor a family is, every dollar has the potential to spark a disagreement.

The cruelest thing you can do to your heirs? Simply expect your estate planning nonchalance to be easily rectified, your will mistakes fixed or your unexpressed wishes magically fulfilled after you're gone. Old paperwork may be set in stone upon your death; subsequent courtroom battles, if they're even affordable (they're not for many heirs), guarantee further strife.

We're here to help. Here are some common inheritance situations that are potentially explosive, according to estate planning lawyers and other professionals, along with tips for getting them under control.

TIME BOMB 1

Inaction

When you ask your dad about his estate plans, he responds, "Oh, look at the time. I'm late for mah-jongg."

FIRST, the reality: Discussing estate matters is up to your parents. Their money, their decisions. But it's important to ask.

David A. Handler, partner at the Kirkland & Ellis law firm in Chicago, says to start with something like "I am trying to plan my financial future, and it would be helpful to know if you plan on leaving me anything when you are gone." You can even put the blame on someone else, saying, "My financial adviser told me to ask about a potential inheritance," he suggests.

If their response to your inquiry isn't "None of your business," you can follow up with "Are you willing to share how much that inheritance might be?" while making clear that it's their money to spend or leave however they choose, says Handler. "You don't want to sound like you are intruding into their affairs or making a money grab, but just seeking information," he says.

If your parents think wills are only for the wealthy, you can mention that the absence of that document will only add stress to your family's anguish upon their death. If they don't decide how to distribute their assets, the state will make the decision for them. And rules for who gets what vary by state.

"Without a will, it's up to state laws and probate courts, which can lead to unnecessary time and expense, as well as assets not going to whom the deceased may want," says Christopher P. Davis, partner at investment management firm Hudson Value Partners, based in Morristown, New Jersey.

Some states also add extra layers of complexity. For instance, if you die without a will in Texas, a third-party attorney may be required to look for any unknown heirs, with the attorney's fees deducted from the deceased's estate, says Mitch Mitchell, product counsel at estate planning company Trust & Will.

If your parents express even an inkling of interest, volunteer to set up a meeting with a financial planner or an estate lawyer for them.

TIME BOMB 2

THE CAREGIVER CONUNDRUM

You moved back in with your parents to be their cook/chauffeur/nurse's aide. In return for this, they're rewriting their will to leave you the family home.

IF YOUR siblings learn about this after your parents die, do you think they'll be pleased? Fat chance. If your parents want to give you the biggest portion of the estate—whether it's the house or extra cash—get this arrangement out in the open now. While some family members may see your help as a blessing, others may regard you as a mooch who lived rent-free and then grabbed more than your fair share.

Ask your parents to communicate this decision while they are alive. This conversation can happen with siblings individually or as a group, depending on family dynamics, says Martha J. Hartney, principal attorney at Hartney Law in Boulder, Colorado.

Also, keep track of the hours spent on caregiving and the money used on expenses such as gas and food, she says. Such documentation can help disgruntled siblings understand why you are getting more in the will.

If you don't already have one, work with your parents to create a formal personal-care agreement that outlines your duties and how you'll be compensated. Share the agreement with your siblings. →

Lettering by Kyle Letendre

TIME BOMB 3

TRUST ISSUES

You want to leave money for all your kids, but you're concerned about Neil, the youngest, and his fondness for blackjack tables.

A TRUST comes in handy here. It's a legal document that lets you specify how you want your assets distributed after your demise. It's ideal for "any situation that needs structure," says Davis. It's controlled by a trustee you appoint, who has the power to make decisions in line with your stated wishes.

You can set up a trust to distribute money at certain ages. You can encourage positive behavior, such as by matching a child's earnings dollar for dollar. You can restrict funds for children engaging in harmful activities, says Hartney. But to avoid making a trust inflexible, you might appoint what's known as a trust protector. That person can modify a trust in response to changing circumstances while maintaining fidelity to your original intent, she says.

To set up a trust with conditions that are practicable and enforceable, you'll need to work with a trusts and estates attorney, which could cost a few thousand dollars. You'll also need to specify how the trust will be funded. When selecting a trustee, consider a close friend, family member or professional trustee—but not your troubled child's more responsible sibling. That's "a recipe for disaster," Hartney says. If you're concerned about one child feeling singled out, you can create an appropriate trust for each of your offspring.

Finally, tell your children about the trust. Says Michael Lehman, CEO of investment adviser Premier Path Wealth Partners in Madison, New Jersey, "We've had adult children inherit assets in the form of a trust, with no prior communication, and resent the fact that restrictions have been placed on their inheritance."

TIME BOMB 4

A blended family

At the risk of sounding like the evil stepparent, you want to leave your assets to your new spouse and your kids from a previous marriage—not to your stepchildren.

GO AHEAD, play favorites. "It's common for spouses in second marriages to want their spouse and kids, but not their spouse's children, to receive money," says Elliott Appel, founder of Kindness Financial Planning in Madison, Wisconsin.

Whatever you do, don't assume that if you leave everything to your spouse, he or she will kindly bequeath what's left to your kids. Instead, as in the previous time bomb, consider a trust. A common strategy is to leave money to support a surviving spouse while designating that, upon the spouse's death, the remainder go to your children.

The tricky part is picking a trustee. If your surviving spouse is the trustee, that person has total control and could spend recklessly, leaving less for your children, says Appel. If you name your kid, your spouse has the awkward task of asking that child for money. Hiring a professional could reduce conflicts.

If you set up a trust that initially provides for your spouse, "give your kids the right to annual accountings" so they see how the money is being used, says Harry S. Margolis, author of *The Baby Boomers Guide to Trusts*. "Transparency can often prevent abuse."

"You might also want to give your children something directly upon your death so that they're not waiting for their stepparent to die," adds Margolis. This is particularly sensible, he says, if your spouse is much younger than you.

INHERITANCE BY THE NUMBERS

15% of U.S. adults believe they'll receive an inheritance in the next decade.

Average expected inheritance	
All U.S. families	$72,000
Wealthiest 1%	$941,000
Next wealthiest 9%	$267,000
Next wealthiest 40%	$60,000
Bottom 50%	$29,000

67% of wealthy individuals are concerned they'll leave too much money to their families.

68% of those wealthy individuals plan to require heirs to meet conditions to access their inheritance.

77% of Key Private Bank advisers working with wealthy families reported that the hardest part of estate planning is navigating interfamily dynamics.

Sources: New York Life, Federal Reserve Board, The Motley Fool, KeyCorp

IT'S A BUSINESS

Your family business is your passion and life's work. Only one child has been involved, but you have two other kids. How do you create a plan that doesn't turn into a made-for-TV drama?

THERE ARE several ways to handle this, depending on your business's current valuation, the sweat equity of the child involved and the worth of your overall estate.

Here's what not to do: "Do not put that one child in a situation where decisions about the business suddenly involve the passive siblings," warns Davis. The last thing you want is a forced partnership with an inexperienced brother or an estranged sister.

Ideally, you're wealthy enough to give the business to one child and assets of equal value to the others. But that's usually not the case.

Among your options: Issue voting and nonvoting shares so that the less-involved kids get the benefits but don't have a say in how the company is run. Or you can give the active child a higher percentage of company ownership and equalize the estate by allocating other liquid assets to the other children, says Lehman.

Both those tactics come with pitfalls. Passive and not-as-active children may want dividends or push to sell the business, while the active child may want to reinvest and grow the company from which they may be drawing a salary, says Handler.

A typical case that Handler knows of involved five children, only two of whom were active in the father's business. One possible solution was leaving ownership to all the children but putting the two involved sons in control; another was to leave the business to those two sons and bequeath the remaining assets to the other children.

"Neither solution would make everyone happy," says Handler. "The sons don't want the others making money from their efforts under option one, and the other siblings might end up with much less than their brothers in option two." Ultimately, the father sold the business to the active sons while he was still alive, then divided his estate equally among all the children.

Advice from a professional can be a lifesaver in this situation, whether you work with a financial planner, a lawyer or a business consultant specializing in family-firm succession.

Skipping generations

Your kids seem capable and secure as adults, so you've decided to mostly bypass them and pass your wealth to your grandkids instead.

YOUR HEART might be in the right place, but you could be setting your kids and their children up for family strife and a bureaucratic mess.

"If the child is a minor, at least in some states, a guardianship account may need to be opened and supervised by the courts until the child reaches the age of majority," says Andy Arnold, CEO at financial planning firm Centerline Wealth Advisors in Louisville, Kentucky. He warns that this process can be cumbersome and time-consuming.

You might also end up undermining your child's parental power. "If a grandkid knows they have money waiting in the wings from grandparents, they can snub their parents' disciplinary process," Hartney says.

If you're set on leaving a grandkid money, consider creating a trust and naming the child's parents as trustees, she says. This way, there's some authority in place while the grandchild has a resource for their future.

Another possible approach: With your children's permission, talk to your grandkids about personal finance and charitable giving, so they can learn more about saving, investing and spending wisely. While the kids may want cash, you're giving them something more valuable, Hartney says: "life lessons, bonding experiences, and emotional and psychological resource-building that can serve them their entire lives." ■

Business journalist Laura Petrecca was formerly the Money section editor at USA Today.