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How to Avoid Estate Fights Among Your Heirs

They're More Likely to Battle Over Things Than Over Money

By ANDREA COOMBES

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The economic downturn, steep health-care costs and longer lives may mean less money being left to baby boomers by their parents—but boomers are unlikely to complain about that.

Why? It turns out it isn't about the money. Instead, baby boomers and elder Americans say personal keepsakes, family stories and last wishes are a far more important bequest than money.



Dennis Auth

Here's something to think about as multiple generations of your family gather over the holidays: Fully 86% of baby boomers and 74% of Americans aged 72 and older said family stories and keeping their family history alive is the most important piece of their legacy, according to a 2012 survey conducted for insurer Allianz Life Insurance.

Some 64% of boomers and 58% of elders said family mementos and heirlooms are a key inheritance. Just 9% of boomers said they're eager to inherit money, and 14% of elders said financial assets are an important legacy to

leave. The findings closely matched a similar Allianz survey in 2005.

Audio

Andrea Coombes and WSJ's Dan Loney discuss how families should avoid conflict over keepsakes when a family member dies.



"The things that make your family unique—not money, but stories and personal possessions—those are most important in the legacy discussion," says Katie Libbe, vice president of consumer insights for Allianz Life, in Minneapolis.

But there are two problems: Families often fail to record their histories, so stories tend to die with aging relatives, and family mementos are among the most common causes of conflict after a relative dies.

"It's never about the money. It's always about the tangible personal property," says Mary Jane Olsavsky, a manager of PNC Wealth Management's Pittsburgh estate-settlement group who for almost 25 years has worked with families to distribute estates.

"Money can be divided pretty evenly, but the teacup that Grandma always used? Maybe there's only a \$2 value associated with that teacup, but because of the sentimental value and the emotions around it, that causes the controversy."

To avoid problems, consider the following steps.

1. Start talking.

As you develop your estate plan, find out who among your family members might like specific keepsakes. If you have aging parents, consider broaching the topic: What items would they like to give to whom?

Parents who create a mechanism for disposing of keepsakes go a long way to prevent conflict later, says Malcolm Greenhill, a certified financial planner and president of Sterling Futures in San Francisco.

"The parent has to take responsibility and realize there's a very high likelihood of arguments and disputes," he says. "There's something about death that polarizes—it either brings families together or splits them apart."

He describes a situation where parents left a treasured vacation home to their children to share. One sibling, in need of cash, wanted to sell the property; the others wanted to keep it. The dispute resulted in professional mediation.

To avoid that situation, the parents should have talked with their children individually and as a group, Mr. Greenhill says. "You sort this all out beforehand and then you make it public. 'This is what we're going to do and here are the reasons for it.' "

Also, take time to tell—and record—family stories. Ms. Olsavsky says she often encounters people who regret not finding out more about family photos. Write on the backs of photos who it is and how they are related, she suggests.

2. Create a memorandum.

To ensure your financial wishes are carried out, your estate plan should include a will, possibly a trust, a power of attorney in case you're incapacitated, a health-care power of attorney and a living will that clarifies your wishes with regard to end-of-life care.

But given that family heirlooms can spark fiery conflicts, create a memorandum that details how you want to divvy up your personal property.

"Most people's wills, the language is very general," says Kate Byrne, a Pittsburgh-based senior wealth planner at PNC Wealth Management. " 'I give my tangible personal property to my wife and kids.' The best thing to do is to have a memorandum with your will."

The memorandum describes who shall receive specific items. The will then references the memorandum; for example, "I direct my executor to distribute my tangible personal property in accordance with a signed and dated memorandum to be found with this will." Relatives may be unhappy with your decisions, but they're less likely to be angry at each other.

Make sure your executor knows where to find the memorandum, and be specific about items. In one example, a woman said her diamond ring should go to a daughter, but she didn't clarify which diamond ring, says Ms. Olsavsky. Attaching photos of the item and referencing each photo in your memorandum can help.

Another way to prevent arguments after you're gone: Give items away before you die. But be wary of gift taxes, warns Ms. Byrne.

In the memorandum, you aren't likely to list all of your possessions. A common approach to deal with the remaining items is that each relative, starting with the oldest child, gets to pick one item, and then they go around the room again.

In family disputes, Ms. Olsavsky says, one option is to have all the items put up for auction. Family members can bid on what they want. The money goes back to the estate to be divided equally.

3. Avoid fomenting discord.

Got a favorite niece or grandson? Consider demonstrating that affection before you die—and make your post-death division of property more equitable.

"If your legacy is that you'd like your family to remain a harmonious unit, then plan to treat them equally, so you don't cause that discord that can occur if one of the children thinks they've been slighted by a parent," Ms. Olsavsky says.

4. Consider hiring a professional executor.

Choosing your estate's executor is tricky business. You're giving power to one family member—that can lead to arguments. To keep things fair, some people name co-executors, but that gets complicated, too. For example, they may all need to appear in court or show up to sign documents, Ms. Byrne says. Remarriages are another source of complications: a stepsibling's actions may not be viewed as fair by family from a previous or later marriage.

In such cases, hiring a corporate fiduciary as executor through your bank or trust company may make sense. You can name a professional executor in your will, or your chosen executors may opt to hire a professional after your death.

5. Share your values.

Sharing family values can be among the most treasured of bequests. An ethical will, which might be a one-page document or a bound book and isn't legally binding, lets you pass along your life story and values.

For Mr. Greenhill, his ethical will—that is, the document detailing his values—is his online blog, where he writes about wide-ranging subjects. (One recent post is titled "What's Your Legacy?" Read more at MalcolmsCorner.wordpress.com.)

Referring to his now-teenage daughter, he says, "There is nothing else I want her to do one day than refer to that."

While an ethical will can take many forms, often it's a letter tucked in with the will. These can be tough to write. The frequently-asked-questions page at PersonalLegacyAdvisors.com can help you figure out how to create an ethical will.

Another idea: A journal that prompts you to write down information such as the location of important financial documents and your wishes for your family. See the "When I'm Gone" journals at JournalsUnlimited.com.

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