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Passing Wealth Along to Our Children:

Emotional Complexities of Estate Planning

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Introduction

Whether we acknowledge it or not, estate-planning is fraught with emotionally-charged decisions. The prospect of sending our wealth into the future without us can be daunting. As we weigh the risks and advantages of passing along significant assets to our offspring, we encounter our feelings about our money, our children and ourselves.

This article follows the adventures of the Blackmans, a fictional family created to illustrate the challenges of leaving wealth to children. Nancy and Stan Blackman need to consider a broad range of questions: How can they best provide for their children after they (the parents) are gone? What is their motivation in leaving money? Whose needs are they providing for—their children's or their own? Are they trying to control or protect? What are the emotional consequences of various trust structures? Should they treat each of their children differently, or should each receive an identical inheritance? Why and how should they inform their children about their estate plans?

There is no definitive answer or single approach to any of these questions. As always, there is more than one side to each issue.

The Blackman Family

Nancy and Stan Blackman, both in their fifties, have three children and considerable wealth to pass on. Stan made over ten million dollars in the heyday of the software industry. Employed by Microsoft since its inception, Stan worked long hours, six or seven days a week. For twenty-five years, Nancy has been running a successful catering business that has often kept her busy on weekends and holidays. A succession of housekeepers managed to keep the household running.

Stan and Nancy have three children, two boys and a girl in the middle. Stan Jr., the oldest son, is doing well. He earned an MBA from Stanford and is in management for an aircraft parts manufacturer in Palo Alto. He has always been steady and reliable. When the children were little, Nancy could count on Stan Jr. to mind the others if she couldn't get home before the housekeeper left. Stan Jr. married three years ago, and his wife is expecting a child. His parents hear from him often, and he usually visits on the holidays.

Diane is now twenty-seven. After graduating from Reed College, she distanced herself from the family. Growing up, she was the quiet one between the two boys. She made her way tidily through school without arousing much comment, and whatever thoughts she had she kept to herself. To the best of her parents' knowledge, she lives in Bellingham and works in a stained-glass studio. Stan and Nancy had been largely out of touch with Diane until two years ago, when she surprised them with a visit at Christmas time. The real surprise, though, was Scott, her live-in boyfriend.

Both Stan and Nancy appraised Scott as a gold-digger. He turned the silver over at dinner to read the Sterling mark, asked how much the house cost, and ran up a large phone bill. Diane was deeply offended when her parents brought up their fears about Scott, and they haven't heard from her since.

Tom, the youngest, is ten years younger than Diane. A junior in high school, he has problems. He repeated his sophomore year and stands to repeat his junior year as well. He was suspended last May for drinking on school grounds and has been arrested twice for stealing liquor. Stan Sr.'s brother, a high-powered lawyer, managed to get him off on the condition that Tom get counseling. Tom is remote and uncommunicative; he spends his time at home in the basement, watching television.

Nancy recently gave up her business in order to spend more time with Tom. His behavior upsets her deeply, especially because she has never allowed hard liquor in the home. She has been seeing a therapist, originally to understand what is happening to her son, though lately she has begun to explore her own issues as well.

Both Stan and Nancy come from lower-middle-class households where the value of a dollar was feared and respected. Stan's father was a postal worker who managed to move his family to a small home of their own in the early 1950s. His mother stayed at home and squeezed a decent life for her children from her husband's paycheck. This was achieved by discipline and control, a fact not lost on Stan. His mother kept an old mayonnaise jar on the kitchen shelf next to the sugar. Every day, she would take the pennies out of his father's pants-pockets and plink them into the jar. That pile of pennies was the source of anything extra in Stan's childhood. If there was enough money in the jar, the kids got ice cream cones. If there wasn't, they got nothing. The memory of the fluctuating level of pennies in the jar has stuck with Stan Sr. throughout his life. He swore that his family would have more to look forward to than counting change.

Nancy's memories of home economies are harsher. Nancy's father, an alcoholic, bounced from job to job. Her mother hid money all over the house to make sure there would be enough to keep the family going. Periodically, her father would rage and ferret out the secret hiding places. Throwing all the change and dollar bills into a sock, he'd disappear for a few days, maybe a week. His job would disappear too. Then the family would move and start over in another town, with another batch of secret hiding places. Nancy is terrified of squandering money.

Stan and Nancy have very different attitudes towards wealth. Stan is extravagant; much to Nancy's horror, he would often take his wallet out and peel off a wad of bills for the kids . "No mayonnaise jar for my kids," he would say grimly.

Nancy, in contrast, is uncomfortable with their new affluence. She worked hard to make sure her kids never had to live with the insecurity that had hung over her own childhood. But her efforts have been dwarfed by her husband's remarkable success, and Stan's spontaneous lavishness grates against her ingrained thriftiness. To Nancy, money is not about having fun; it is about survival.

On his last business trip, Stan suffered severe shortness of breath. A trip to the emergency room revealed that he has a fairly serious heart condition. Stan's doctor told him that drug therapy would probably control the problem but that he runs a small risk of having a fatal heart attack. Frightened by Stan's condition, the Blackmans have begun to rewrite their wills. The wills they made years ago seem inadequate to deal with the complexities of their present situation.

The Emotional Legacy of Our Wills

Late one night, Stan and Nancy sit in their living room watching the news and sipping coffee. Stan gets up and turns off the TV in the middle of the program. "Do you mind if we talk? " he begins. "This whole will thing is on my mind.

"I guess I am worried about Tom and Diane. I mean, Stan isn't a problem. But Diane—it's like a disaster. She is going to end up getting married to that Scott. She may have already done it, for all I know. And I cannot stand the idea of that money-grubbing interloper getting his hands on one cent of mine. . . I mean ours, dear."

"Aren't you concerned that he's got his hands on her?" Nancy asks.

"Well, of course that bothers me, but I can't do anything about that. All I can do is keep him from getting our money after we die."

"How are you going to keep Scott out of the loop," Nancy responds," and keep Stan's wife in the loop? After all, she's family now."

"I don't know. I guess we could make it so that Diane doesn't inherit if she marries him. I 've got to make her see what that bum is up to. How stupid can she be?"

"I'm not as worried about Diane as I am about Tom," says Nancy. "We made that money so that the kids would be better off. But I'm afraid Tom will just be worse off if he gets even a penny of it. He is in such bad shape now, I dread to think of what would happen if he had any serious cash. And you haven't helped any by whipping out the mad money and waving it in his face."

Stan is irritated: "Look, Nancy, there's nothing wrong with having a good time."

"Yes there is, if you think that's the only kind of time you're supposed to have! Tom thinks he doesn't have to answer to anyone. He thinks he can drink, chase girls, and skateboard through the rest of his life. All three of our kids have had it too easy as far as that goes!"

"Look, honey," says Stan, "let's go downtown and talk to this David Wayne that my brother recommended. Lawyers have to deal with this stuff all the time. Let's take it to an expert."

In planning their estates, wealthy parents have the opportunity to look carefully at what they have to give to their children, in terms of both spiritual and financial wealth. They also have the opportunity to become aware of the ramifications of what they bequeath.

As a general rule, financial considerations, especially tax avoidance, tend to dominate estate planning, yet financial priorities often conspire against the emotional well-being of heirs. What could be of more benefit to our children, says the common wisdom, than increasing the amount of money that is left to them? Yet sometimes *how* wealth is given has more impact than *how much* is given.

We are in new territory when we consider the psychological dimensions of estate planning. Although we take for granted the legal machinery of will and trust-making, there is no guidance generally available to help parents investigate their feelings about passing their wealth along. We may be slow in coming to the notion that the emotional issues of estate planning deserve as much attention as the legal and financial ones. Dennis Pearne, a psychologist in Cambridge, Massachusetts, who often works with affluent clients, observes, "Parents need to explore their feelings about passing on their wealth. Hidden emotional currents harm a family the most."

Later in the week, Stan and Nancy visit David Wayne. The lawyer enters the conference room. "Mr. Blackman? I'm David Wayne. Your brother and I were associates at Coleridge & Bradley years ago. Mrs. Blackman, pleased to meet you. I understand you want to do some estate planning?"

Stan nods while Nancy shifts in her seat. Mr. Wayne settles himself behind his desk with a look of practiced concern. Both parents take turns describing their children. Stan gets worked up when he talks about Diane, and Nancy becomes increasingly distraught as she discusses Tom. They are talking to each other rather than to their lawyer.

After forty-five minutes, David Wayne rouses himself and cuts them off. "So you have three children, only one of whom you feel is capable of handling a bequest. The other two have more, uh, vulnerability to receiving wealth."

Nancy bursts out, "I can't stand the thought of Tom out on his own with access to even fifty dollars a week! He is going to waste the money that Stan and I spent our lives working for."

Mr. Wayne proceeds cautiously, "There are a number of different arrangements we could look into that will afford you and Mr. Blackman some tax benefits, while ensuring that Tom and Diane receive controlled amounts of income."

"Any income at all is too much for Tom at this point!" exclaims Nancy, close to tears. "He is going to end up exactly like my father did! I'd rather leave him nothing at all than allow that to happen."

"Nancy," says Stan," don't you think you're overreacting?"

"No, I am not! We can't even get Tom to finish high school, and here we are talking about making sure he has money to spend on drugs and good times."

"Nancy," says Stan,"there's nothing wrong with him wanting to have a good time. It's just that so far, he doesn't want to do anything else."

"I did not work myself to death every Christmas time for the last twenty years so that Tom can send himself on a cruise down the drain!"

Stan cuts in, "Let's face it, Nancy, you wouldn't want money spent on any kind of a cruise at all."

"That has nothing to do with it, and you know it." Nancy gets up and stomps out of the office, leaving Stan and David Wayne to cover their embarrassment.

"I suppose this happens to you all the time," ventures Stan.

"Well, not everyday, but it isn't uncommon," the lawyer replies. "Parting with your fortune, even imagining it, can ratchet up the tensions."

"I just don't know what we should do," sighs Stan as he gets up to leave. "We do get overwrought about the kids, especially Diane and Tom."

"I can't tell you what you should do, " says David Wayne gently. "Only you can figure out what you should do. But I can tell you what you can do."

How a Therapist Can Help

There is a growing number of wealth counselors who specialize in the emotional issues connected with wealth. "People think you can talk about money in a completely factual, dispassionate way. We see the need to bring the emotional side—the values side—and the technical side together," says Anne Slepian, who has a wealth counseling practice with her partner, Christopher Mogil, in Arlington, Massachusetts. "People often say, 'I can't cry when I am in the accountant's office.' We respond to that by saying, 'How do you feel about your investments? How do you talk to your father or your children?' We explore these questions simultaneously."

Sharon Rich, a financial planner in Belmont, Massachusetts, says, "Generally, I tell my clients that a therapist is good for figuring out what you really care about, what your human concerns and goals are. And a therapist can help you explore the conflicts that arise as you deal with your wealth."

After her emotional scene with Stan in the lawyer's office, Nancy decides to talk with Alice Ferguson, her therapist, about her money worries. "We have so much money, so much more than I ever thought we'd have in a million years. And I am afraid of what it will do to my children," she confesses. "Stan likes to throw it around in front of the kids, and everyone else too, for that matter. It gives our children the wrong ideas about money. You know, Stan thinks money is there to burn, but that isn't what money is really for."

"Well, what do you think money is for?" Alice asks.

"It's for food and clothing and a roof over your head!" Nancy exclaims.

"But you already have all those things," Alice points out.

"Right now I do. But you'd better hang on to it, because you don't know when the sky is going to fall down," retorts Nancy.

Nancy reveals later that she has a hard time enjoying her wealth. "I still can't spend money on anything I don't really need. I remember the first time I ever bought something just for fun. Stan and I were in London fifteen years ago, and he convinced me to buy a Liberty silk dressing gown, even though I had a perfectly good bathrobe at home. But I didn't wear it until the other one wore out. I still can't believe I don't have to worry about saving every cent. And I can't believe how our children take our money for granted. Sometimes I feel like I am the only one who actually watches what we're spending."

"Okay, but perhaps that's because of what you've been through," Alice suggests. "Your children haven't been through the same experience."

"I know it isn't their fault that they didn't grow up struggling like we did," Nancy admits.

With the help of her therapist, Nancy begins to look at her own money agenda and to see how her childhood has created anxiety and expectations about how her children should handle money. However, she finds that she is still uncomfortable with the thought of leaving any money at all to Tom.

"I guess I'm afraid he is going to stick it all in a sock and leave town for good,"says Nancy, smiling weakly.

Hidden emotional issues may interfere with our willingness to follow sound financial advice. If we find we are dragging our feet on important financial decisions, a therapist can help clarify the source of our resistance. Kate Shepherd*, for example, was having a hard time getting information from her parents about their estate plans. Her own estate planning was largely contingent on her parents' decisions, so she convinced her entire family to meet with a wealth therapist for a two-day consultation: "Our financial advisor, Dick Atwater*, was getting frustrated. He would offer my parents the best financial advice he could give, only to run into emotional roadblocks that really were not his problem to deal with. I was trying to plan my estate, and I needed certain information from my parents. But I just wasn't able to get any solid responses from them.

"The last straw for me was when Dick said he wasn't sure that he would be able to keep working with us. So I ended up suggesting to my parents that we try and deal with some of the emotional issues up front, with the help of a therapist.

Mom and Dad were both a little hesitant, but they were willing to give it a try.

"Dennis Pearne, the therapist we chose to work with, has a background in wealth-related issues. He's very savvy. He knows the ins and outs of trust

* *Names followed by asterisks are pseudonyms.*

structures, so we didn't have the distraction of explaining the financial stuff to him. Also, we didn't feel embarrassed about having problems in connection with our wealth; we didn't have to apologize. He made us feel that it was valid to have a hard time.

"Dennis started out the session by getting some background information, like our family tree, and then he went around the room and asked us what we wanted to get out of the meetings. We had financial questions to resolve, but the underlying issue was why my sister and I couldn't get straight answers from our parents to our straightforward questions.

"One thing that came out was that my parents feel disempowered and uninformed about their own wealth. That comes, at least in part, from Dad being an heir himself. Also my mother was feeling somewhat used. She was afraid that I was being grasping about the wealth. And I was able to say, 'Hey, no, I am just trying to be responsible here and plan my estate for my children!' And she finally heard me."

Kate's mother concurs. "I had never heard of going to a therapist for such a thing. I never imagined that it could take place anywhere but in the estate planner's office. I must say that I hadn't given a great deal of thought to some of the feelings that were behind all this.

"When the kids have brought up our wills, there has always been a little voice inside of me saying, 'This is grasping'. Well, in the course of our meeting, it turned out not to be so. I got to say what my fear was, and my daughters could clarify that they weren't motivated by greed. It became pretty clear that their own estate planning was necessary and very responsible."

If it is simply a matter of calling a family together and generating some discussion, why should we consider hiring a therapist to facilitate? Kate says, "Our family is probably not unique in that we don't communicate in a very straightforward way. Most of the stuff that we should say directly to each other gets relayed through a third family member, who functions as the information broker. And that can lead to distortions. Dennis Pearne pointed that out and encouraged us to speak directly to one another. And families need a skilled facilitator to help them deal with issues that could be inflammatory. When you get angry, it can be hard to keep your perspective. The therapist is there to be a spokesman for compassion, equality and detachment. Just having Dennis present allowed us the time we needed to just plain tell our stories without being challenged.

"We started out with the purely financial issues, but the process was one of people revealing themselves. Sometimes anger was expressed, but that ultimately increased the environment of compassion. I found myself telling my mom, 'I didn't know it was so hard for you!'"

The net result for this family was a precise understanding of the emotional issues at stake for both parents and children when they discuss financial matters. Consequently, they are now in a better position to resolve the financial issues that had brought the family into therapy in the first place. Each generation is now able to enter its own estate planning in an informed way.

If going to a therapist for estate planning is such a good idea, why isn't everyone doing it? "It is threatening," concludes Kate. "You have to take some real risks, so you need an ally—at least one other family member who wants to do it. I think it would be impossible if just one person were trying to convince reluctant family members. My parents were afraid of being exposed, of being confronted. But the fact that the rest of us were hot on the idea and were able to reassure them that it wasn't some kind of ambush, that we were entering into it with love and goodwill, made it possible for Mom and Dad to come along."

Therapists can help parents identify and resolve their misconceptions and fears about wealth. Where misunderstanding and suspicion cloud family communication about inheritance decisions, a therapist can provide the necessary safety and gentleness to conduct a fruitful family meeting.

Some families, though, are simply not comfortable with the idea of seeing a therapist. Some may feel reluctant to share their problems outside of the family circle. Others may fear that therapy will be an invitation to open a Pandora's box of long-standing and painful issues. Still others may fear that their exclusive power in the estate-making process will be challenged if they include their children in open discussions. Sharing that power can feel like a frightening loss of control to some parents.

Alice suggests to Nancy the option of having a family meeting. She proposes inviting Tom, Stan Jr. and his wife, and Diane and Scott to participate in discussing the Blackmans' estate plan. "You would have the opportunity to find out what your children's needs and hopes are, and you and Stan could express your own hopes and fears."

Nancy winces at the thought. "Sorry, Alice, I'm not evolved enough for this. I can't talk to Tom about what he wants for dinner, let alone how he'd like his inheritance set up! He's not mature enough to handle knowing what our total assets are, nor what might come to him. And we're too out of touch with Diane. I really don't feel that this is appropriate for our family."

"You could view this as an opportunity to find out more about your children's lives," encourages Alice. "They might have some good ideas."

"I don't want them to think they can tell us what to do. It is still our money!" says Nancy heatedly.

"You are only asking for their thoughts. You're not asking them to make decisions for you."

Nevertheless, neither Nancy nor Stan is willing to endorse such a round-table discussion. "I don't really feel like it is any of the kids' business," Nancy tells Stan. "They should be grateful that they're going to get anything at all, let alone tell us how to give it to them. But maybe there is some way to use this as an excuse to get back in touch with Diane."

After some thought, Nancy and Stan decide to write a letter, to be followed by a phone discussion initiated by the children. Getting to the heart of the matter, Stan writes, "As your parents, we'd like to know what life goals you have and how you could use an inheritance from us to further those goals."

Over the following month, both Stan Jr. and Diane reply to the letter. Stan Jr. responds easily, saying that he wants to pay off the mortgage on his house in order to be able to afford a cabin in the mountains.

Diane, on the other hand, surprises both her parents by saying that she wants to start her own business in stained-glass and ceramic products. "I have enough experience from filling orders in the studio to know what will sell," ventures Diane. "I'm tired of having my boss steal my ideas to make more money for himself."

Hearing all this from her two oldest children is disappointing to Stan. Buying a second house and getting out from under a greedy boss are not his idea of long-range life goals. Nancy, however, reminds him that very few people, when confronted with the prospect of an inheritance, are apt to think much beyond their most immediate dreams or needs.

From what Stan and Nancy can gather from Diane, Scott is still very much in the picture. Although their phone conversation is a little awkward, neither Stan nor Nancy makes unkind remarks, and at the end, Diane expresses a wish to see them sometime. "I'd love to have you come up and see what Scott and I have been doing."

"I can't believe it!" groans Stan to Nancy. "Now, not only do I have to worry about Scott, I have to worry about Diane wasting her inheritance on broken pots and shards of glass."

"You know, you could give Diane a little credit. Maybe she's actually done some research. Maybe Microsoft didn't sound like such a good idea at the beginning, either." Nancy shakes her head in disbelief as she says,"What I can't believe is that Stan Jr. wants us to finance a vacation home for him. How indulgent can you get?"

"Oh, Nancy," counters Stan, " it isn't a crime to have a second home. At least it isn't as off the wall as Diane and her cockamamy idea for a business. What does Diane know about business, for God's sake?"

"You know, maybe she inherited her mother's business sense. Who would have thought that I would have done so well in the catering business? I had to take a risk with that. There was no guarantee that I was going to make it."

The Issue of Control

Control, or the lack of it, is one of the central issues for many parents in creating their estate plans. On the one hand, they want to help their children by leaving them money. On the other hand, they fear that their largesse could be misused, the wealth could be squandered, and their children could become people of whom they would disapprove. "There is a lot of emotion connected to renaming the money from 'mine' to 'thine,'" says Jeffrey Zabner, a trust and estate lawyer in Westlake Village, California. "Sometimes my clients feel that their kids are not made of the same stuff *they* are, and, for one reason or another, do not deserve 'easy wealth.' Perhaps this is jealousy, perhaps it is immaturity—the parents' *and* the children's. In any case, handing the money off, as it were, can be a frightening prospect."

Relinquishing control is the main theme of parenthood. As their children get older, parents are forced to let go. We want to give the wealth to our children if they can do the right things with it: live well, work hard, be sane and stable, and benefit their own children—in short, if they use that wealth to perpetuate a morality with which we agree.

Yet the first way to demoralize people is to deny them their independence. Attempts to control heirs can easily backfire. "Some grantors want to hold money back because it is a power thing," observes Hank Lodge*, a trust officer. "In one case, a son took over the family business, but his father wasn't willing to let go of control. He paid his son a third of what the job would have earned elsewhere. He was very hard on him, constantly berating him. That son was never going to be good enough, never going to be old enough, never going to be mature enough. No matter how that son struggled to be what his father wanted him to be, the reward was, 'When I die, you'll get the substantial chunk of my wealth.' Well, the son died first. His father had never considered that outcome as a possibility; he was so sure he had everything under control."

Even if parents plan their estate with the precision of a space launch, life remains unpredictable. There are so many variables involved that it is impossible to create a flawless estate plan. Max Todd*, who recently retired after a lifetime career as a trust officer, says, "I can remember two families in which the circumstances were similar, but the outcomes were at opposite ends of the spectrum. The unthinkable happened: both sets of parents were killed in accidents.

"In one family, the children were eighteen years old, and they came into a pile of money—more than a hundred thousand dollars [in the '70s]. And I came to realize that, for them, the money was a burden, and they didn't want to have anything to do with it. So they spent it. It was almost as though they were thinking, 'Well, now that I have the money, I am going to spend it. Then I won't have to deal with it anymore.' The brother and sister could do whatever they wanted with the money. There was no provision for the trustee to stop the payments from going out, and they were impulsive, as if the inheritance was too much to bear.

"They simply had to get the money off their backs. They loaned money to friends, they bought houses, they bought cars, they took long trips, and they didn't do anything. They didn't go to college and they didn't work. They're still not working and they're in their thirties. Behind the spending, there was a real sense of the burden of having money.

"In the other family, when the brother and sister received their inheritances, they saw immediately that they had a problem. They were obviously bothered by their money, but they took steps to deal with the situation. They came to see me quite a few times and were interested in what I had to say. They wanted to know all about it—sort of the intellectual approach. I thought that was very constructive."

The complicated relationships within families, the power of money to skew those relationships, and the unforeseeable circumstances of life all frustrate parental attempts to control. Acknowledging the limits of that control can be a positive step in passing wealth on to children.

Confronting their desire to control their children is the most challenging emotional issue Stan and Nancy face. Stan explodes during the next visit to David Wayne: "How can I handle Diane? She thinks she has this great business idea, which, from what I can tell, is so half-baked, it isn't even in the oven yet. But she hopes to put her inheritance into it.

"And if that isn't bad enough, that Scott guy is still around. Doesn't Diane realize that the jerk is simply hanging on to get at her piece of the pie? He just wants to marry her so that he can get the flatware, along with anything else he can get his hands on. I can't let that happen to her. I've got to protect her from that moron."

"Stan," Nancy challenges, "you don't want her to go into business, you don't want her to marry Scott. What do you want her to do?"

"I never said I didn't want her to go into business," he shoots back. "I said that this business sounds very risky. And Scott is definitely what he seems like: a sponge looking for a lifetime meal ticket."

"But look, you don't even know if he's really that bad," says Nancy. "Just because he wasn't the ideal house guest. Diane is going to marry whomever she's going to marry, and there is nothing you can do about it."

"I could disinherit her if she does marry him."

"You wouldn't!" retorts Nancy.

"You shouldn't," interjects David Wayne. "To make a person's inheritance contingent on their marital choice has been successfully challenged in some states. I doubt if it would be upheld." Looking a little weary, he continues, "I think one of my old classmates has a practice in Bellingham. I could see if she's heard anything about this, ah, friend of your daughter's, if that would be helpful to you."

"Yeah," Stan replies. " See if he's got a record. Maybe if I can prove to Diane that he's a criminal, she'll get the picture." Stan looks relieved.

Are We Protecting or Overprotecting?

How can parents establish enough safeguards to protect their heirs from the money, and the money from their heirs, while giving children enough leeway to feel independent? Max Todd advises flexibility, with a willingness to take some risks: "The terms could be modified over time to respond to your children's behavior. In being flexible, you may chance losing some money. But you don't get anything unless you are willing to take risks, and the risk you take with your children is that they will spend some of it unwisely. On the other hand, they might learn from their mistakes."

Not only do children usually learn from their mistakes, oftentimes it is the only way they learn. "Wealthy children must be allowed to learn from their own experience. So many parents are unwilling to expose their kids to the pain of life," notes Myra Salzer, a financial planner in Boulder, Colorado. "The parental instinct to protect may actually be working against the best interests of their children."

None of us wants to rob our children of their self-respect, yet trying too hard to direct or protect them may do just that. The three factors that parents must balance in the estate-planning process are their children's need for autonomy, the protection of the estate, and the children's need for reasonable protection.

Later that day, Stan calls Nancy from his office. "Honey, I know I can't make Diane do what I want her to. Maybe the business thing does have some merit, though I doubt it. But I can see it coming with Scott, and I just want to protect her from that fleece artist."

"Look, I know," Nancy replies. "I did think Scott was pretty dreadful. But if I recall, my mother wasn't that crazy about you."

"Nancy! You never told me that."

"Why should I have? I knew that I was going to get hitched, whether she liked it or not. And she didn't have any will to threaten me with."

"The thought of our wealth leaching away makes my blood boil. There must be some way to keep the money in the family."

"We have an appointment with David Wayne next week. "

What Is a Trust?

Nancy and Stan worry all week. Finally, they find themselves seated in David Wayne's office. Their lawyer begins, "I'd like to give you an overview of your options today so that you can find the one that will satisfy your concerns. First things first. Let's talk about trusts and taxes."

In most cases, a trust is an inheritance with a chaperone attached. Trusts can be maintained at banks or at a variety of private trust companies and firms. The trustee or trust officer is responsible for reporting on the assets, the income and the disbursements of the trust. The trustee is also responsible for the management of the assets (even if (s)he hires someone else to do it), and for upholding the wishes of the person who establishes the trust. Sometimes parents find the notion of a trustee overseeing their children's wealth quite reassuring; they like the idea of hiring surveillance to protect their peace of mind while their children have a counselor to rely on for advice.

Trusts can range in flexibility from irrevocable generation-skipping trust agreements, in which heirs have no control over the assets, to certain kinds of simple trusts that allow heirs to use the funds as they wish.

All trust arrangements fall into one of two categories: *inter vivos*, meaning that the person who creates the trust (the grantor) is still living; or *testamentary*, meaning that the trust goes into effect when the grantor dies. In addition, trusts can be either *revocable*, meaning that the grantor can dissolve the trust and reclaim the assets; or *irrevocable*, meaning that the terms of the trust cannot be changed.

Trusts can be written to incorporate varying degrees of access and control. The trust officer can be instructed to limit beneficiaries' access, preventing them from squandering their wealth. In other cases, we can create trusts so that the trust officer can give advice, and even warnings, but does not have veto-power over our child's requests for funds. In incentive trusts, the beneficiary must fulfill specific conditions before receiving any money.

Tax avoidance is the main financial reason why people create trusts. But the trust structures that give the most tax savings may not necessarily promote the emotional well-being of heirs. Attorney Jeffrey Zabner comments, "The old paradigm for estate planning has been to solve the tax problems, and the family will accommodate. But the tax engine shouldn't be allowed to drive the estate-planning train."

If conserving wealth is our top priority, the emotional consequences for our children may get overlooked. We may end up writing such restrictive wills that our descendants will deeply resent the lack of control they have over their own resources. However, conservation of wealth does not necessarily have to be a given as the most important issue. "I recently consulted," writes John L. Levy, a wealth counselor in Mill Valley, California, "with a family in which the father chose to pay an extra $100,000 in taxes. This man weighed the emotional impact on his children as more important than the money itself."

Joanie Bronfman, a wealth counselor and therapist in Brookline, Massachusetts, reports that many heirs feel their parents distrust their ability to handle their own wealth—a distrust that is painful and disempowering, and which creates roadblocks instead of opportunities for heirs.**

David Wayne continues, "Your desire to protect your heirs and your desire to protect your assets may dovetail nicely. The greatest protection for your heirs and the biggest tax break go together. From a tax point of view, you stand to save the most money in an irrevocable generation-skipping trust. Your children will get the income, but the principal reverts to your grandchildren or your great-grandchildren. Tom, Diane and Stan will never be able to spend the principal; it will be protected from them and their spouses."

Irrevocable Generation-Skipping Trusts

Irrevocable generation-skipping trusts can serve the dual purposes of keeping wealth intact and avoiding estate taxes. But their emotional effects can be devastating for beneficiaries. The terms of a generation-skipping trust dictate that the principal can never be distributed to our children, but remains in trust for our grandchildren or great-grandchildren. The message that children may hear from this is: "You aren't worthy of the wealth or the responsibility." When we create such trusts, the unspoken priority is the conservation of the wealth. The message is that the money is more important than the heirs are.

Max Todd says, "The question I ask my clients is: Do you want to take full advantage of the generation-skipping possibilities and put the maximum amount of your property in a generation-skipping trust so that it will avoid taxation on the death of your children? Or do you want them to have it outright? On the one hand, more money will stay in the family if you put it in trust. On the other hand, your children will always have to go with their hand out to the bank or whoever is holding the trust to ask for money."

Fred Hopgood*, an heir in his forties, has his wealth enmeshed in a series of family trusts. The family office files his tax returns; it even filed for his divorce. "I just don't do anything," says Fred. "I don't know how to connect with the world. Is having money actually holding me back in some way from communicating, from contact?" He has never had a job or felt he could legitimately call himself an artist, though at times he has worked hard on drawing and painting. "I think there's an aspect of this 'umbilicalness' to the money that has had a profound influence on my actions." The message this man lives with is, "Don't worry, we'll take care of you,"

** Joanie Bronfman, *The Experience of Inherited Wealth: A Social-Psychological Perspective* (Ann Arbor, MI: University Microfilms, 1987.)

which implies that he is incompetent to take care of himself.

Amelia Rivers*, who married into dynastic wealth, says, "When my children need money, they have to call the family office and ask, 'Please, could I have a little something? My washing machine broke down.' None of us likes being dependent like that. Allowing the children to make up their own minds, presenting them with the options and then saying, 'You decide' has never been part of the family office philosophy. It's humiliating."

Other kinds of judgments are also conveyed by family-administered generation-skipping trusts. "A subtle kind of built-in message has come along with my trusts," Kate Shepherd says. "You are guilty if you spend too much, if you behave wrong, or if you aren't the sort of person the family office expects you to be. But if you save money, you are a good girl."

Deborah Frank* expresses anger and frustration over her irrevocable trust: "My father set up the trust without revealing any of his reasons for doing so. He put a form in front of me and said, 'Sign the form, Debbie. You'll always be taken care of.' I still resent his presumption that I couldn't take care of myself, and his unwillingness to let me have any control over my money."

Furthermore, Deborah's father left a large unrestricted inheritance to her teenage son. "He never asked me how I felt about Eric inheriting so much money at eighteen. He just went right over my head. I didn't even know about it. I am afraid that it could be destructive for my son. But my role as Eric's mother never figured into the situation." She doesn't mention the added insult of having her father refuse to give her any discretion over her own wealth, while giving her young son—his grandson—full control over his.

In some generation-skipping trusts, children can end up with assets far greater than what their parents have. Amelia Rivers says, "In fact, our children will be much more well-off than we are, unless the trustee chooses to make some distributions. Generation-skipping has been an important part of those trusts. So much power sits in the lap of that trustee." The message heard by this woman is that she had better behave or her children will get all of her money.

In contrast, Roy van Heusen* feels the protection afforded by his trust was a godsend: "My wife's family business, which had thrived for three generations, failed this past year and went bankrupt. My in-laws were desperate to raise capital, and they approached me for funds. Not only were they my family, they were also my employers! As much as I wanted to help them at the time, my hands were tied because all of my wealth is held in an irrevocable trust. Now that the dust has begun to settle, even my in-laws admit that the business was doomed to fail. If I had been able to give them my inheritance, I would have lost all of it.

"The demise of the company affected us immensely," he continues. "I lost my job. We lost our health insurance, which for us is crucial since we have a son with cystic fibrosis. My wife stays home to care for him. Luckily, I found another job quickly, and though I am paid much less, our health benefits remain intact.

"Should we need to put Michael into a special school, the trust will cover it. With some cutbacks, we have been able to get through this without uprooting the family. We've been able to cover our household expenses, and we don't have to sell our house. Without that trust income, we would have been in a state of upheaval."

For this family, the irrevocable terms of Roy's trust safeguarded their wealth. Yet the extremity of these circumstances is unusual. Perhaps the worst-case scenario is the one we long to provide for. But if that worst case never materializes, we may have prevented our children from taking full advantage of the resources that we could have offered them.

Stan gets up and walks restlessly around the lawyer's office. "Although a trust would undoubtedly answer some of our worries about Tom, I don't think it is appropriate for Stan Jr.," he says. "I think he can handle the money, and I don't want him to think that we mistrust him. He's responsible, and he has certainly had the training to deal with the money. He deserves to get a better deal than that."

"Besides," says Nancy, "what's the point in leaving all the money to the grandchildren? If Diane and Scott have a baby, why would that child have any more sense than they do?"

"I have to admit that it seems wrong to keep the money out of our children's hands, and then turn around and give it to someone not even born yet," agrees Stan.

"Well, it will cost you some taxes to go to another type of trust," cautions their lawyer.

"We've got other considerations here," counters Nancy. "We have three real, living, breathing children to worry about."

"You could write a fairly simple trust that would give Diane access to her wealth, but not without certain restrictions," suggests Dave.

"What kind of restrictions?" asks Stan.

"Whatever you want to write into the trust instrument."

Simple Trusts

For the purposes of this discussion, a "simple trust" is defined as an agreement that spans only one generation of heirs, and may or may not be irrevocable. Unlike an irrevocable generation-skipping trust, which for tax-saving purposes must, by law, have very narrow guidelines for the disbursement of capital, a simple trust can be more responsive to the needs of the beneficiary.

There is a broad range of possible trust arrangements. The tax savings vary from agreement to agreement. Some trusts dissolve when the child reaches a certain age, some dissolve at the discretion of the trustee. The grantor can also dissolve a trust if the trust is revocable. The main advantage of a such a trust is that it can be as flexible as one is willing to make it. Trusts can be created to provide for the beneficiary's education, or to allow the heir to purchase a home or visit the Pyramids—virtually anything.

The trust officer monitors and sometimes personally manages the funds in the trust. He or she is in a position to weigh the beneficiary's request for funds against the total income/asset picture. Depending on the instructions, the trust officer may have the power to adjust the trust to accommodate circumstances in the lives of children that parents could never predict or plan for.

Obviously, only living trusts can be revocable—that is, dissolved at the grantor's discretion. The emotional dimension of such a trust can be devastating for the heir. "I have a client," says Kenneth Pauling*, a financial manager in New York, "who has a revocable trust. Every time she tries to act independently of her mother, her mother threatens to dissolve my client's account. It is crippling for her and no fun to observe." The revocable terms of this trust allow the mother to blackmail her daughter into compliance.

Another drawback is the self-fulfilling prophecy that can accompany such a trust. According to John L. Levy, "Seeing and treating young people as children often makes them so." Furthermore, attempting to protect children from expensive mistakes can actually harm them. "Being overprotected and guarded generally delays their maturation," continues Levy. "They are shielded from the world so that they don't develop their psychological muscles. Risking is an essential element of life, and particularly of growing up. We all learn painfully from our mistakes, but most of us don't seem to be able to do it in any other way."

Patrick Judson*, an estate lawyer, agrees: "My advice to clients is to give their children the money outright and as soon as possible. Otherwise, the heirs never grow up. I have fifty- and sixty-year-old adults coming into my office, whining. They whine about their lives, they whine about their parents, and they whine about their money. The trust fund relegates them to a lifetime of giant babyhood. They are so undignified; they blame anyone but themselves for their problems."

Another aspect to consider in setting up a trust is the relationship your children will have with their trustee or trust officer. As trust officer Hank Lodge puts it, "Sometimes we are called upon to be a surrogate parent, a friend, a counselor, and sometimes we're looked upon as the enemy. We play a lot of different roles." Deborah Frank was so uncomfortable with her trust arrangement that she avoided speaking with her trust officer for eighteen years. In other cases, however, a trust officer can be an impartial advisor whom heirs can trust and confide in.

Another issue worth considering is that once a trust is created, it becomes, for all intents and purposes, the property of the bank or trust company until it is dissolved. In recent years, banks have been taken to task for the apparent conflict of interest between the needs of the beneficiary and the self-interests of the bank. If the instructions in the trust document give the bank the choice of whether or not to distribute wealth, the bank may be at cross purposes with the intent of the grantor.

Parental attempts to protect a child's assets can end up compromising the management of the wealth. Without our specific instructions, our heirs will be unable to move their wealth to another bank or other financial institution. "All of my inheritance was tied up in the municipal bonds issued by a midwestern town," says John Munro*. "Well, they might have been a good investment in the 1930s when Grandmother bought those bonds, but by the sixties, I had lost everything. The terms of the trust made it impossible to redeploy the investments or for me to relocate the trust to another bank." Such a scenario is deeply disempowering, for it makes the beneficiary helpless to do anything but watch as his or her wealth dwindles through neglect or mismanagement.

Incentive Trusts

"What about incentive trusts?" asks Stan. "I think I read something about them recently."

"It takes a little creativity to work out the details, but that way you could insure that some of your wishes are fulfilled as a prerequisite for the kids to get the money," David replies.

The incentive trust is gaining in popularity. It allows parents to protect their heirs from some of the negative consequences of inheriting, like being unmotivated to work or to achieve certain levels of education. The beneficiary receives the money, but only under certain circumstances. Incentive trusts are designed to motivate heirs towards certain goals. For example, an heir could take out of the trust, dollar for dollar, what he earned at his job as an incentive to work.

An advocate of the incentive trust structure, Jeffrey Zabner remarks, "A conscientiously structured trust can help children learn both social values and management skills. These trusts contain special provisions that reflect the love, care, personal philosophies and concerns of parents towards their children and grandchildren." But Zabner also cautions, "Trust planning will never be a substitute for good parenting. It's far more effective to transmit good values face-to-face and through example than through a trust agreement."

Incentive trusts create the possibility of providing children with the security of wealth without robbing them of essential experiences necessary for personal growth. Incentive trusts also have the positive feature of being flexible, so that the degree of wealth can actually respond to changes in the life of the beneficiary. For example, if the heir has college-age children, the trust can give the heir half of the tuition fees, as long as the heir contributes the rest.

Some banks currently have entire departments dedicated to the creation and administration of incentive trusts. These trusts would seem to solve many of the problems outlined above, though Joanne Smith*, a trust officer specializing in incentive trusts, cautions, "Incentive trusts work well if they are done well. But what most people don't realize is that you can end up turning your offspring into really weird human beings whose sole motivation in life becomes how to outwit the trust. I think the real issue is the idea of empowering people to make good decisions, regardless of the trust. And that is a fine balance."

In the face of substantial wealth, forcing an heir to work as a matter of principle can not only generate resentment but can misdirect a person's life: "It's somewhat artificial to make someone work for a wage, when perhaps you wouldn't want them to be doing something only for the money. Somebody could be a wonderful teacher, making very little money, but living off of their private income," states one financial advisor. John L. Levy agrees, "This sort of manipulation is a danger to be avoided; it's almost always destructive. While it is true that getting the inheritance should depend on some demonstration of the heir's ability to handle the money responsibly, there is danger in the use of this kind of power to force the child to dissemble and to deny his or her true nature."

The main risk with incentive trusts is that the natural shape of a person's life may be distorted. The benefit is that beneficiaries may be encouraged to mature in life, to strive for goals, and to contribute to society.

Stan frowns and shakes his head. "Maybe an incentive trust would work out for Tom. If we could figure out the right carrot, we might be able to get him through high school and college, maybe even make sure he'd get a job. But Stan has already done pretty much everything I hoped he'd do. And it doesn't do me any good in dealing with Scott."

David Wayne sighs. "Well, as far as Scott goes, it is possible to create an estate that can never get into his hands. Such trusts were in common use for many years, largely in order to protect young women from 'opportunists.' Essentially, the structure is the same as an irrevocable trust, but the criteria for distribution of principal are based on gender. You could prevent Diane from having any access to her wealth, except the income, which would keep Scott from receiving the principal at all."

The "Victorian Clause"

Traditionally, gender biases in estate law have been common, although trusts written explicitly to "protect" women are becoming less prevalent. In the past, fathers often invited sons-in-law into the family firm, trusting the males with the same wealth that they kept out of the hands of their daughters. In John L. Levy's practice, "a number of women clients have complained bitterly about how their fathers have withheld from them responsibilities and information that were given to their brothers."

But men are not the only ones perpetuating discrimination against female heirs. In one family, the trusts created by a matriarch kept the principal out of the hands of female descendants for future generations. Francesca Da Silva* recalls, "My great-grandmother's will was set up so that the men in the family start getting parcels of money when they turn thirty, thirty-five and the rest in their forties. But all the women in my family are held under this thing called a 'Victorian Clause.' We women don't ever get to touch the principal. We live off of the income. I can't just ask for money and spend it on what I want.

"I cornered an uncle at one point when I was very upset about the fact that all the men in the family had access to principal, and I didn't. He said that it was set up that way because my great-grandmother thought that women were fools, and if they were to have access to their money, they would either give it to whomever they were in love with at the time, or to some charity or religious thing. And it wouldn't stay in the family.

"There is this thing about keeping money in the family. My great-grandmother believed that men were going to invest their inheritance and do business ventures with it. Even if they did nothing with it and it just sat there, they would at least pass it on to their children, who would retain the family name. But her fear was that the women would just let the money disappear from the family history. "The interesting thing is, though I've fought the limitation on my trust for years, I am the only one in my generation who has any money left at this point."

Ironically, the portion of her wealth that this woman did lose went to romantic and charitable involvement, just as her great-grandmother had feared. Even though she resented the sexism of the "Victorian Clause," she is nevertheless grateful that she was prevented from giving away all of her wealth.

In a contrasting story, Raleigh Jordan* laments the fact that her inheritance was not protected from her reckless husband, "When my father's estate was settled," she says, "my funds were transferred directly by a judge in Baltimore up to my husband's brokerage firm in Boston.

"For all intents and purposes, he took control of it. I didn't know what he was doing in the office. I never actually signed the money over to him, but he'd bring the blank stock powers home. Sure enough, when I was fooling around with the orange juice and the scrambled eggs and the toast and the cereal, trying to get four kids ready for school, and the carpool was coming—that's when he'd put the stock powers in front of me and say out of the side of his mouth, 'You gotta sign these because I gotta get moving now.' And I was signing my fortune away.

"By 1971, he'd lost half of my money, and by '73, I think he'd lost all of it. It didn't occur to me that anyone could lose that kind of money. I didn't have a clue that it was all collapsing until it was over.

"There should have been a surveillance set up, and the minute this surveillance showed what this character was doing, the money should have been taken out of his hands. The money should have been put with professional money managers who did not stand to benefit by churning the account."

Both of these women appreciate the value of safeguarding an inheritance: one, because she couldn't squander hers, and the other, because her husband did. Both support the concept of restrictions, not because they are female, but because they were ill-prepared as inheritors to manage their money.

Many women, today as in the past, are improperly prepared to understand and assume control of their wealth. Instead of educating their daughters, many wealthy families have been content simply to limit their daughters' access to their inheritances.

"I wouldn't dream of demeaning Diane like that!" Nancy bristles. "This is out-and-out discrimination against Diane for being a woman! You would never even consider leaving money tied up for Stan! What about Tom? Can you imagine what kind of person he might marry? What about making sure his wife can't take advantage of him! Why single out Diane?"

"No, it isn't discrimination against Diane," Stan replies. "It is discrimination against Scott for being a fraud!"

"Then why are you punishing her?" Nancy demands.

"Why do you want to punish Stan Jr. for wanting a vacation home?" counters Stan, rising halfway out of his seat.

The lawyer clears his throat and buzzes his secretary. "I think the moment has arrived for refreshments. Tea or coffee? "

After the Blackmans are settled with their drinks, Stan says, "I'm having a hell of a time figuring out how to do the best thing here."

"For the purpose of discussion, the other extreme is to leave them the money outright," comments their lawyer. "You could wash you hands of the entire matter. Let *them* figure out what to do with it."

Outright Bequests

Outright bequests put the most possible power in an heir's hands because the grantor relinquishes any control over the inheritance. "When my father died, I inherited a million dollars outright," recalls Sophie Carlson*. "There were no stipulations of any kind connected to the money. If I'd wanted to donate the whole thing to the Red Cross, I could have. If I'd wanted to spend it all at Bergdorf Goodman, I could have done that." Often, however, parents fear this type of inheritance, especially if their children are young, because it lacks safeguards.

An advantage of the outright bequest is that it sends a clear message of confidence and empowerment to our children. Henry Baldwin* says the message for him was: Take fate into your own hands. A disadvantage is that such children may end up feeling overwhelmed if they are unprepared for their inheritance.

"An outright bequest is out of the question for Tom and Diane," exclaims Nancy, clearly uncomfortable with the arrangement. "And now even Stan Jr.! I can't believe he wants to buy a second home. It seems like the money might go to his head too. I can't imagine leaving money to anyone that way. It is too risky, totally out of our control. You don't know what they are going to spend it on, and we really don't know what it will do to them."

When Fair May Not Be the Same Thing as Equal

David sips his iced coffee and resumes, "Well, you could consider leaving different types of bequests to each child. You could leave Tom with an incentive trust, Diane with a simple trust, and Stan with an outright bequest."

"That sticks in my craw," Nancy says. "I can't imagine anything worse than Diane spending the rest of her life wondering why her inheritance is set up differently from Stan's. She would always feel we treated her unfairly. It is no different , really , from that Victorian idea."

"Well, I've seen everything under the sun in terms of trying to be fair," David remarks, leaning back in his chair. "Some people think that the only way to be fair is to hand out the shares equally all around. Other people say that treating each child as an individual with unique needs, not as one of a group, is the only fair way."

To most of us, *equally* and *fairly* are interchangeable terms. Yet some parents feel plagued by the fact that their children all seem differently suited for inheriting wealth. Leaving inheritances under different conditions to siblings may seem unfair, yet making identical arrangements may not accommodate their differences.

Jeffrey Zabner believes strongly that each child should be treated individually: "When people come to me with the intention of treating all their children equally, I ask them, 'Why is that important to you? What do you mean by it? How would you feel about treating each child as an individual? How do you imagine it would affect your relationship with them, or with each other?' Parents cannot head off potential trouble merely by creating identical legacies for each of their children. That's the 'cookie-cutter' trust approach."

He continues, "Sometimes 'fairly' and 'equally' are two different things. It's important that parents think through the particular needs, strengths and weaknesses of their children, and fashion trusts responding to those needs. I want to emphasize that you can't resolve your children's lives through trust agreements. You have to be willing to work with thorny issues while you're all alive. But no matter how dedicated you are as a parent, some of your offspring may be in a better position to deal with money than others. Leaving different bequests isn't the simplest approach, but sometimes it is the best for your children."

Or is it? According to Sharon Rich, creating different trust agreements can do more harm than good. "It can be divisive and set siblings against each other," she says. "In fact, I advise my clients to go with the most protected situation as the common denominator, if need be. This avoids the implicit judgment." In other words, if a simple restrictive trust seems necessary for one child, then all of the siblings' inheritances should be put into identical trusts.

"In one family I worked with, one child was treated to a trust, while the others got their money outright," recalls Max Todd. "She was terribly upset! She was in tears. 'How can they do this to me?' Her parents had the idea that she couldn't handle money. In fact, it turned out she could handle it better than her siblings. She finally came to accept the fact that her money was in trust, and that having a trust wasn't all bad. It enabled her to have a disinterested financial advisor, which neither of her siblings have, and I think she feels a tremendous amount of security. Even so, I think treating siblings differently is a big problem. 'I don't trust child A to have the money outright, but I do trust child B.' That is a very difficult thing for siblings to deal with."

Zabner insists that parents inform children of their bequests if the terms of inheritance differ among siblings. "It's a sort of litmus test," he explains. "If the parents won't do it, then they probably have some pretty deep, unresolved issues and should talk to a counselor." He adds that another reason to tell their children about their plans is to protect both the drafting attorney and the fiduciary. "If there is a possibility of 'fallout', if the children are angry and unhappy about their trusts, it might be wise to videotape the signing of the documents. That way, there's a record of the mental state of the parents and of the environment in which the plan was fashioned."

Leaving equal parcels has the outward appearance of fairness, yet weighing the abilities and needs of each child separately may actually seem more judicious to some parents. The real test, though, lies in the perceptions of the children themselves. Regardless of the parents' intentions, do the estate plans empower or disempower, protect or manipulate? How will their children feel about themselves when they learn of those plans?

"It goes against the grain from where I sit to leave Stan, Diane and Tom different types of inheritances," says Nancy. "Tom is always comparing himself to Stan Jr. anyway. It's not going to help Tom's self-esteem if his money is all tied up and Stan's isn't."

"Oh, do I hear the undertones of therapy here?" taunts Stan.

"You know, Stan," says Nancy, "it wouldn't hurt you to look into your feelings about wealth. At least I am trying to work with my agenda." Nancy gets out of her chair and paces around the room. She continues, "I just feel damned-if-we-do, damned-if-we-don't. If we leave the money in the best way for Tom, Stan gets slighted. If we make arrangements with Stan in mind, both Diane and Tom may be vulnerable to a host of problems. If we customize each child's inheritance, it is going to damage their relationships with each other. Sometimes I wish we just didn't have the money in the first place." Nancy throws herself back in her chair. "I feel like we've been in here for hours without getting anywhere."

What Age to Inherit?

"Another way to approach this problem may be to consider the age at which your children inherit," David offers.

"Well, I thought they'd all just get their inheritance after we are gone," says Stan.

"If you live another twenty years--" David begins.

"I am intending to do so!" interrupts Stan.

"Your oldest son will be fifty by then," finishes David. "Perhaps he could use some portion of his inheritance before that."

Money can empower children, or it can overwhelm them. When they are young, their sense of who they are is fragile and can be strained by having to cope with wealth. "Eighteen couldn't be a worse age to come into your money," remarks Max Todd. "Having friends and revealing to them that you have quite a lot of money creates a problem. Are your friends your friends because you have a lot of money? Should you give money to your friends? Should you loan them money? These are tough things to deal with at any age, but they are particularly tough to deal with when you're an adolescent."

The way children are raised has great impact on how well they cope with their wealth. The more we discuss wealth and its implications with our children while they are growing up, the better they will be equipped to handle their inheritances. If we can afford to, distributing at least some of our wealth before our death gives children the opportunity to make some mistakes and develop some skills. And we can leave bequests in trust, to be distributed to our children gradually, in the event that we die before they reach adulthood.

One type of trust that works well is called a stepped-in trust. It goes into effect while the parents are still living. John L. Levy comments, "One third of the inheritance is made available to the children at a fairly young age, say, twenty-one, with the understanding that the second third will be turned over to them after they've demonstrated some ability to use it responsibly. The final third is held in reserve until it is quite clear to parents or trustees that the inheritor is mature enough to take responsibility for it."

There are advantages to allowing children to test the waters rather than getting thrown in head first. Terrence MacDonald* says, "I have never had a problem dealing with the substantial wealth I received when my father died. I think it is because my parents made it a point to put modest amounts of money into my hands at an early age. In fact, they put money into my hands at regular intervals, when I was really quite young—early teens, I'd say. And that is what I am doing with my own children. Dealing with money is as natural to them as having brown eyes."

Susan Stein*, an heir with two college-aged daughters, disagrees. "I do not want my kids to have a lot of money right away. I want them to have it at some point, and I never want them to feel like they are going to be bag ladies. But I know that the security has to come from within them. It can't come from what I give them."

But withholding money for too long can cause unnecessary hardships for heirs and their families. A college professor in his late fifties recalls having to take out a second mortgage on his home to pay for his children's education, even though there was money waiting to be released in an irrevocable generation-skipping trust upon the death of an uncle.

There are no clear solutions. Trust officer Hank Lodge sums it up: "I've met eighteen-year-olds who are incredibly responsible. On the other hand, sometimes a lot of money at a young age can blow a person away. And I can tell you that there are people seventy years old who are not ready to receive money. But if they aren't ready by then, well, you may as well forget about it.

"Since you can't predict what a person will do," he continues, "don't give them everything at once. Start with a third and see what happens. As far as my own children go, I would give them enough money to buy a house or start a business after they'd figured out what they wanted to do. Yet you don't want to squash their ambition. So it's a delicate balance."

"Are you suggesting that we give our kids their inheritances before we die?" inquires Nancy.

"You could do that. You can gift them each ten thousand dollars a year under the current tax laws. You could create *inter vivos* trusts, which would go into effect while you are alive, according to the age of your children. Or you could have some wealth pass on to them upon the death of one of you." Nancy and Stan exchange a glance.

"Look, if they really need some help, they can ask us for it," Nancy says. "I think they can wait until one of us dies."

"Well, let me think," Stan says. "If one of us died tomorrow, Tom is eighteen, so we could make him get to twenty-five before he can get anything. That will give him seven years to grow up, if he is going to."

"And since your other children are older than that, they will have access immediately," concurs the lawyer.

"So Tom would get nothing until he's twenty-five?" asks Nancy.

"At the earliest," smiles Stan.

Informing Our Children

In their final estate plan, the Blackmans leave about a third of their assets to various charitable bequests. Of his remaining assets, Stan bequeaths half to Nancy—just over five million dollars. The rest passes to the children. Stan and Nancy decide to create an irrevocable trust and a simple trust for each child.

The terms of the irrevocable trust allow for the disbursement of capital in only a few very specific circumstances, such as a medical emergency. Tying this money up offers the Blackmans some peace of mind, while providing a guaranteed income for each child. The other trust dissolves when each child reaches the age of thirty, giving them access to half of their inheritance with no strings attached.

Both Stan and Nancy feel good about this arrangement, although it is a compromise for both of them. For all intents and purposes, the estate treats each child identically. Yet in fact, the children receive their wealth at different times in their lives. The first disbursement of the trust comes at age twenty-five, the second at thirty. This way, Tom will have access to half of his inheritance, but Nancy is satisfied that he will have plenty of time to mature before then. The irrevocable trust protects the other half of his inheritance, should he prove to be a spendthrift.

While Diane could possibly lose half of her wealth if all of Stan's fears are confirmed, there will always be an income for her from the irrevocable trust. She will be able to try out her business idea and marry Scott without losing everything.

Stan Jr., being over thirty already, will receive half of his inheritance free and clear, as his father feels is his due, while the other half will remain protected for future generations.

As they sign the papers, David Wayne brings up one last item. "You should both consider how you would like your children to find out about your plans."

"I don't have a problem letting Stan and Diane know, but I don't really want to tell Tom," confesses Stan.

"I can't imagine telling Tom," agrees Nancy.

In the past, wills were often kept secret. The man of the house, who usually had full legal control of the family assets, did not discuss the terms of his estate, sometimes not even with his wife. Children who wanted to know the terms of their inheritances were seen as greedy and grasping, waiting to benefit from a parent's death. By the same token, parents who kept their children in the dark were able to use the threat of disinheritance as a tool to manipulate their offspring.

Such secrecy is a fertile breeding ground for disingenuousness and deception. We need to make our estate plans known for our children's emotional well-being. Children need to know how much money is going to whom, and under what conditions, in order to plan both their lives and their own estates. If, for instance, we are leaving educational trusts for our grandchildren, then our children will be able to arrange their lives and expenditures accordingly. If wealth is being left in irrevocable generation-skipping trusts, then our children need to know that while they must take care of their own needs, *their* children will be provided for.

If it is so obvious that children should be informed of the general plan of their parents' estate, then why don't parents always do it? Some people find wealth difficult to talk about in general, while the specter of the grim reaper lurking behind estate discussions may be enough to drive others away from the topic altogether. Still others are afraid that they might detect a note of anticipation in their children's inquiries. Some parents fear that if they know how much they're getting, children will drop out of school, quit their jobs and gather like crows awaiting their parents' demise. That level of distrust of one's own children is painful to acknowledge.

The prospect of sharing power can sometimes dampen parents' desire to inform their children. They may be reluctant to give up their control, yet they risk disempowering their children. Kate Shepherd says, "My uncle's policy is that he doesn't tell his children a whole lot about his assets or what they can expect to inherit. He has some feeling that the information will prevent his children from being productive. There is also an underlying fear on my uncle's part that by making the information accessible, he would lose control. Knowledge is power, and the less his children know, the less power they have. So this is about his need to keep his children disempowered. On the other hand, if they are disempowered, they won't lead productive lives."

Informing our children takes some of the uncertainty out of their lives; it can also pave the way for honesty and straightforwardness in family relationships. As parents, we may fear conflict and negativity if we are leaving wealth with restrictions that we know our children won't appreciate. But if we are willing to risk a family confrontation, we might be able to express our concerns and love, as well as share the concerns of our children.

"Well, David," asks Stan, "do you think you could draft a letter to Diane and Stan Jr., basically outlining what we've decided to do?"

"I can certainly do that," David responds. "But it has been my experience that a personal letter from both of you would also be very useful."

"I suppose you're right," says Stan. "I have often wished my father had left me something like that, even though he didn't have any money. I'll have to give it some thought."

"Oh, Stan, Nancy, I almost forgot." David stops them as they are about to leave. "I received a call yesterday from that old law-school friend of mine who has a practice in Bellingham."

"Did she find out anything about Scott?"

"Well, yes, actually, she did. Turns out, Scott is one of the Hallbrands."

"I know his last name, but do you mean he's one of the kitchen-and-tableware Hallbrands?" asks Stan, aghast.

"Holy cow!" exclaims Nancy.

"Yeah, holy cow," mumbles Stan.

Conclusion

Although they never muster up the courage to explain their estate plans to their children face to face, Stan and Nancy do manage to write letters to each child. They explain their reasons and express their hopes. These letters are to be kept with their wills and distributed at the time of each of their deaths.

A year and a half later, Stan dies of a heart attack, but not before meeting his first grandchild. After receiving his inheritance, Stan Jr. does buy a second home and, much to Nancy's consternation, a yacht as well. He recently quit his job to take his family sailing in the Caribbean for a year.

Diane and Scott marry just before Stan's death. To Stan's chagrin, Scott already possesses a fortune of his own, which is tied to his family's multi-million-dollar corporation. Diane goes ahead with her glass-and-ceramics business, which becomes very trendy. Her work can be found in homes, banks and restaurants all over southern California.

After Stan's death, Tom turns himself around. He gets his high-school equivalency diploma and, after a stint at the local community college, is accepted at the Culinary Institute of America. He wants to open his own restaurant.

Nancy goes back to school to get her Master's degree in social work. She hopes to work with troubled teenagers.

Creating wills can be a difficult process because it forces parents to confront their feelings about their lives, their deaths and their children. As parents, we owe it to our children to acknowledge the impact that wealth has had on our lives and may have on theirs. By planning estates thoughtfully, by understanding one's own hopes and fears, and by communicating openly within families, a healthy transmission of wealth can be promoted. There is no doubt that open communication has the potential to make the emotional legacy we bequeath one of clarity and love.

In addition, parents must be reconciled to their lack of control over their children and over events in their children's lives. Children have their own destinies to confront and their own harsh truths to bear. Amelia Rivers, who has lived all of her married life in the context of a wealthy family, concludes, "I have been a long time in coming to this, but if push came to shove, I would tell my child, 'You are living a certain lifestyle that you have chosen. If there are rewards, you will get them. But if there are hard consequences, you will get them too.'

"My friends have a son who became a confirmed drug addict. They tried to help him in every way, but of course he wouldn't listen. You know, you can't control someone else's life.

"So the parents said, 'Okay. Take everything and see where you go.' And he did. He went through all of his inheritance, burned it all up. Since then, he has been fine for seven or eight years. But squandering his inheritance has not been without consequences. He really has to work hard, and he is not living like his siblings do. Yet I think that that is what made the man.

"And that," she says finally, "is a very hard risk for parents."