

DEATH OF A SPOUSE



Preventing Debt After the Death of a Spouse

Losing a spouse can be devastating. After your spouse passes, your financial situation is likely the last thing on your mind.

Getting your finances in order can be an overwhelming task, especially if the spouse who has passed on did not keep an organized record of their financial affairs. It's very important not to do anything rash; make a plan first because you will be going through a time of adjustment, personally and financially.

Whether you and your spouse are planning ahead together or you are dealing with the aftermath of their death, this guide will help you manage your finances during a difficult time.

Organize your documents

You may want to enlist the help of a few trusted family members to help you with this task. However, be very careful because your private affairs should be kept confidential. Start by making a comprehensive list of every financial element and source of debt that will need to be focused on.

For example:

- Funeral service and burial costs
- Estate, will and trust matters
- Income and employment matters (such as pensions or Social Security benefits)
- Investments (IRAs, mutual funds, CDs)
- Tax documents (income or property tax related)
- Current bills (rent, mortgage, credit cards, etc.)

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- Miscellaneous expenses

Once you have created this all-inclusive list of every financial consideration, determine the resources that can assist you in managing them. This means making another list of the professionals you will need to contact, such as attorneys, tax accountants, investment advisors, credit counselors, etc. You can then determine which elements on your list are most pressing and need to be taken care of right away and which can wait.

If you think that you will have a hard time paying off your unsecured debts (credit card debt, old utility bills, unsecured loans and personal debts) in a timely fashion, a credit counseling service can help you manage your debt, pay your creditors, and teach you how to create a budget that is best for your financial future.

Start learning

Reputable consumer credit counseling services focus on educating their clients about their finances and try to enlighten them on legal matters that may be entwined in their personal matters. Don't be afraid to ask for help from a credit counseling agency or legal advisors.

The more you educate yourself on your rights and the nuances of your personal financial circumstances, the better off you will be in the long run. You certainly don't want to be surprised or blindsided by debt that you are not prepared to pay.

The following pages cover some items that you should take into consideration.

Are there any outstanding debts on any credit cards that you have cosigned?

Some creditors may write off the debt acquired by a deceased customer, but this is not the case if a co-applicant is on the account. If you are a co-applicant, then you will become exclusively responsible for the outstanding debt upon the death of your spouse. Remember that, by law, creditors cannot close a joint account automatically. Many times, the creditor will ask the surviving applicant to file for a new application. Based on the surviving applicant's credit history, the creditor will decide if they want to extend credit to the surviving applicant.

Do you live in a community property state?

In community property states, married couples are considered to own their property, assets and income jointly. In community property states, credit accounts opened during marriage are automatically



considered joint accounts. This could impact what you will be required to pay back to your creditors, especially if your spouse incurred a maximum amount of debt on their credit cards.

The following states are community property states:

- Arizona
- California
- Idaho
- Louisiana

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- Nevada
 - New Mexico
 - Texas
 - Washington
 - Wisconsin

Tips to avoid a financial crisis

Dealing with financial matters during this stressful time is never pleasant, but it is important to take matters into your own hands to avoid a financial disaster. One of the things you can do, if you haven't already done it, is establish a strong credit record in your own name. This will not only help build up your credit prowess, but it can also save you from many potential problems in the future.

Try to create an emergency budget to help with debt management issues as they come at you. A credit counseling agency can help you build a budget that fits your financial situation.

Who should you contact after the death of a spouse?

Some are obvious, but it's good to make a list. Make sure to call:

- Family, friends, and relatives
- Place of worship
- Funeral home
- Executor named in spouse's will (there may be funeral or

other instructions)

Next, you need to list who to call after the funeral. You will need to check on:

- Retirement or other funds
- Spouse's employer to check on wages, accrued and unpaid vacation time, sick pay, death and retirement benefits
- Social Security office or benefits
- Insurance agents on policies and claim forms
- Banks, brokerage houses and other financial firms for account status and ownership
- Trustee of any trust
- Department of Veterans Affairs, if applicable
- Lawyer to determine if a probate is needed (if living trust or non-probate transfers occur, or in a small estate, a probate may not be necessary)
- Credit card companies

Also, cut up your spouse's credit cards. As stated earlier, you may use credit cards held in both your names, but the company may request a new application. Some credit card companies provide death benefits.

Documents and information to assemble

Here is a list of the documents you should keep in a central location:

- Will
- Trust

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- Letters of instruction
 - Life insurance policies
 - Retirement plans and IRA information
 - Birth certificates
 - Military discharge papers
 - Marriage license
 - Deeds on property owned by your spouse
 - Vehicle registrations for motor vehicles, trailers, and recreational vehicles
 - Recent bank and financial account statements
 - Recent tax returns
 - Loan documents, including mortgages and other loans
 - List of all outstanding debts, as of date of death, such as credit card bills and utilities
 - Copies of the most recent bill received right after date of death
 - Social Security cards
 - Financial statement or list of assets as of date of death
 - 10 to 15 copies of your spouse's death certificate for the Social Security Administration, lenders, insurers, and other institutions so you can change the name on applicable accounts or collect any money that is owed to you

The question of probating your spouse's estate

Probate is the legal process where a court determines if a will is valid or that no will exists; then the court provides distribution of assets to beneficiaries as designated in the will or by law if no will exists.

You may not be required to probate your spouse's estate. Even if a probate isn't required, most states require you to file the will (with the probate court or the county recorder's office) within a certain number of days after your spouse's death. Call the probate court or contact an attorney.

Probate is not needed in the following situations:

- **Property held in trust.** Many people today plan their estates to avoid the costs and delays of probate through a revocable living trust. Property that has been conversely and titled in the name of a trust need not be probated.
- **Joint tenancy with right of survivorship property.** Often bank and financial accounts and sometimes real estate pass to the surviving joint-tenant free of probate. This is sometimes called "tenants-by-the-entirety" for a married couple.
- **Financial accounts or other assets** often pass automatically to a third party through a Payable on Death (POD) designation.
- **Life insurance, annuities and retirement benefits** usually have a beneficiary designation which controls the distribution of that asset free of probate.
- **Small estates.** Most states allow the surviving widow(er) or beneficiary of a small estate to simply file a form affidavit.

If a probate is needed, contact an attorney who is familiar with probate law. He or she will guide you through the simplest and most cost-effective way to handle the probate of the estate.

Paying taxes

As a general rule, property you receive by inheritance comes free of income and estate taxes. A major exception is retirement funds in qualified plans, such



as MBA accounts, 401(k), 403(b) or IRAs. To avoid paying an immediate income tax on retirement funds, be sure to review your options to roll over or receive periodic payments.

The year your spouse dies, you will receive favorable joint return tax rates and standard deductions. If a probate is necessary, and the probate estate has enough income, an estate income tax return may have to be filed. If not, the income earned after the date of death is simply reported by the beneficiaries of the assets.

An estate tax return must be filed with the IRS if the estate (including probate and non-probate assets) exceeds \$600,000.

Some states have an inheritance tax. Check with an accountant on the income, estate, or inheritance taxes and/or returns that must be filed.

Pay only the bills you should pay

Before paying any bills, determine if it is your debt, your spouse's debt, or a joint debt. You are responsible for paying your debts and joint debts. You aren't responsible for your

spouse's debt since your spouse's estate will pay those debts.

Loan agreements you have signed with your spouse, credit cards held in both names or used jointly, property taxes on property you both owned and household expenses are joint debts. Hospital bills, funeral expenses and legal fees incurred because of your spouse's death are estate debts.

You should continue to pay your bills and joint bills. You may use your money, money held in joint accounts and funds you receive directly without a probate to pay bills and to cover all living expenses. You should not dispose of or spend assets in your spouse's name that must go through probate. If you are short of income or assets because they are tied up in probate, once the probate begins you may be entitled to a monthly "widow's allowance" from the probate estate.

Know what to expect from Social Security

A surviving spouse can qualify for one lump-sum death payment of \$255. The spouse or children younger than 18 may qualify for monthly Social Security payments as well, depending on the circumstances. Visit ssa.gov/benefits/survivors/ for more information about Social Security payments after death.

Planning for the future

It is very difficult to move on once the death of a spouse occurs, but it is in your best interest and your family's best interest to plan for the future. These are some things you should consider in case your spouse survives you.

Disability planning

If you become disabled or incapacitated, does someone have a durable power of attorney or durable power of attorney for health care to help you?

Estate planning

Examine your will or trust. Perhaps you should consider a revocable trust so probate can be avoided at your death.

Financial planning

Do you have enough income for now and the future? Should you take a lump-sum distribution of retirement funds or installment payments? If you withdraw funds from a retirement account early



(before the age of 59½) be aware of any undesirable income tax consequences.

Conclusion

Experiencing the death of a loved one is never easy, but when it is your spouse, the financial realities must be taken care of or the consequences could be devastating. Unfortunately, millions of dollars are lost by widows and widowers every day through unnecessary taxes, excess estate and probate expenses, litigation, poor investments, and rip-off artists.

Don't let anyone take advantage of you. Get the proper family, friends, and professionals to assist you in making a sound plan that will protect your finances. At least you will have some peace of mind knowing that you made the right decisions regarding your financial future. It will be comforting for you and your family knowing that your hard-earned money is safe, working for you and available if you need it for an emergency situation, day-to-day living or for pleasure.