A Guide for the Surviving Spouse

By Robert Prior

The National Mental Health Association recognizes what we intuitively know: "the loss of a loved one is life's most stressful event." Grief and loss are compounded by the need to deal with the immediate aftermath of death including funeral arrangements, probating the Will, applying for benefits, retitling assets, determining financial needs, and generally getting affairs in order. This article is intended as a guide for the surviving spouse.

Pre-Death Planning. The very best planning either spouse can do is an orderly and thoughtful plan before death. In the absence of pre-death planning, the surviving spouse will have more issues to deal with and the costs involved will be substantially higher. The most difficult situations are those when the surviving spouse has no idea what assets are owned, how to pay the bills, and what the deceased spouse wanted. Careful planning and conversations about these matters while both spouses are living can lead to an orderly and relatively stress-free transition after death.

Assets and Liabilities. The surviving spouse will need to put together a comprehensive list of assets owned by the deceased spouse. How those assets are titled at death will impact the steps necessary to re-title assets after death. Debts of the deceased spouse must also be determined. Arrangements need to be made to continue to pay these debts, although there are some which may have lower priority than others if there aren't sufficient assets to cover them.

Appraisals. Determining the value of all assets on the date-of-death is also an important component of post-death planning. For investment accounts, it is relatively easy; the daily value of stocks, bonds and other investment vehicles is readily determined. Real estate investments, however, typically require an appraisal. Date-of-death valuations are important to determine the stepped-up tax basis of the assets. The new tax basis will determine the amount of capital gain (or loss) that will be realized when assets are later sold.

Probate. If assets were titled in the deceased spouse's name, then a probate of the Will may be necessary to be able to sell those assets or re-title the assets as instructed in the Will. This process typically involves an attorney and the simplest ones take at least six months to complete. More complex estates may take several years to complete administration. A surviving spouse and minor children may also be entitled to a "year's support" from the deceased spouse's estate. This is designed to set aside assets for the spouse and minor children that have priority over all other debts of the estate.

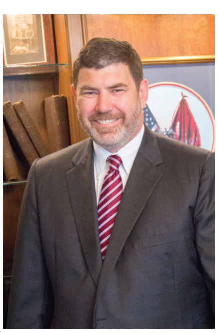
Benefits. The surviving spouse will need to apply for survivor benefits with the Social Security Administration, if eligible. If the deceased spouse owned life insurance policies, the surviving spouse will need to make a claim for benefits on forms provided by the company. Pension benefits may also be available to the surviving spouse and these have to be applied for with the deceased spouse's employer.

Retirement Plans. The surviving spouse will need to make decisions regarding the deceased spouse's 401(k)'s, IRAs, or other retirement plans. If the surviving spouse is the primary beneficiary, then generally they can elect to make the deceased spouse's plan their own IRA (known as a "spousal IRA") or treat the plan like an "inherited IRA." An inherited IRA allows the surviving spouse to take distributions without penalty before reaching the age of 59 ½.

Income Needs. One of the most important steps is determining income needs of the surviving spouse and how to generate that income. This typically involves carefully budgeting for all expenses and consulting with a financial advisor to invest assets to generate the income needed to cover those expenses.

Taxes. Death does not end the obligation to pay taxes. Income tax returns for the year of death must still be filed and taxes paid. The estate must pay taxes on income generated while the estate remains open. For large estates, estate taxes may also be owed within nine months of the date of death.

The chaos and upheaval caused by the death of a spouse can be made more orderly by implementing a plan to deal with post-death issues. Consult with your estate planning attorney for assistance.



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