



Pathfinders in Elder Law



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Accounting for Gifts and Loans to Children in Your Estate Plan

No parents want their children to fight among themselves after they are gone. Sadly, conflicts often arise, especially when a parent has gifted or loaned money to one child and not others. However, a few key words in your estate plan can minimize the potential for conflict.

If you give money to one child, the other siblings may claim that the child should receive a reduced share of your estate. Speaking at a recent meeting of the National Academy of Elder Law Attorneys, Tim O'Sullivan, an attorney from Wichita, Kansas, who has written and spoken extensively on the issue of family harmony, said he recommends that his clients make their intent clear in their estate planning documents. For example, the document could state that you are not making any adjustments based on gifts. This would make it clear to everyone that no one should receive a reduced share. Alternatively, you could specify the gifts that have been made and explain why one child is receiving a reduced share.

Loans are another problem. O'Sullivan says loans can be addressed in a number of

ways, depending on your intent. Verbal loans are difficult to prove, so O'Sullivan recommends including a provision in your estate planning documents stating that all verbal loans are a gift. If you have any outstanding verbal loans that you don't want to be a gift, then make sure you put these in writing. If you want the loan to be an advance against inheritance, this can also be specified in your estate planning documents. To avoid a child claiming the loan was forgiven, you can require that the forgiveness be in writing.

The important thing is to make sure your estate planning documents clearly convey your intent. Be sure to consult your attorney to ensure your documents provide guidance you want regarding gifts and loans. ▲

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