



Estate Planning for Blended Families When the Couple has Different Needs

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Our clients Jim and Carol are in their fifties and have been married for 13 years. It's a second marriage for both of them, and they each have children from prior relationships. They each have their own careers: Jim is a veteran airline pilot; Carol is a mid-level executive for a multi-state engineering firm. Together they earn \$375,000 in annual income. They live in southern California and have a vacation property in Telluride, Colorado. Their total net worth including life insurance is \$4,500,000.

Jim has two sons from his first marriage: Greg and Peter. Carol has three daughters from her first marriage: Marcia, Jan, and Cindy. They also have another son together, Bobby. They feel they have been greatly blessed; all their children are healthy and have no disabilities or chronic illnesses.

Jim's ex-wife and Carol's ex-husband are still living. As a result, Jim and Carol have not been able to legally adopt each other's children. Their children from prior marriages live full-time with Jim and Carol, but "the exes" are still involved in the kids' lives. At times, the relationships with the exes are strained.

Jim and Carol know it's time to get their estate planning in order but they're concerned that their situation is too complicated. They want to make sure that their children are all provided for fairly, and they don't want the exes to have any influence or control over any inheritance the kids receive. They're fully committed to their marriage, but they also know from experience that life can bring unexpected changes to an otherwise happy relationship.

Jim and Carol's Planning Goals

Jim and Carol want to make sure to provide for the surviving spouse after the first of them dies, and they want to provide for the son they have together, Bobby. They want to divide their joint (community) property evenly among their kids, and they want safeguards in place to protect their property from a possible later remarriage. They want their separate property to provide for their surviving spouse and their own children, insulated from meddling by any ex-spouses.

Finally, because Jim and Carol have survived divorce themselves, they want to make sure the inheritances they leave to their children are as protected as possible. They understand the

litigious nature of our society and they do not want lawsuits or bad decisions to jeopardize the legacy they leave to the kids.

Although Jim and Carol's situation is a little complex, it is far from unique. In fact, one of the reasons the "Brady Bunch" story resonated with many television viewers is that it reflected a growing trend in American family life. According to a 2014 report by Pew Research, **40% of all new marriages include at least one partner who has been previously married.**¹ This means that many couples fit the Brady Bunch profile.

"Traditional" estate planning falls short

For blended families like Jim and Carol's, a traditional joint revocable trust-based estate plan would be very challenging to design - and even harder for the surviving spouse to effectively administer. With their family history, separate, commingled, and community property, and different planning needs (because of their children from prior relationships), trying to capture all of the contingencies of, *"If Jim dies first then this happens, but if Carol dies first, that happens..."* in a comprehensive, single trust instrument would be convoluted at best.

But, doing *separate* trusts for Jim and Carol won't really work, either. First, they live in a community property state.² Because of the nature of community property, it is both challenging and disadvantageous to sever community property and transmute it to separate property, as doing so will cause them to lose the "double step-up" in asset basis when the first of them dies. More important to Jim and Carol, they believe that having completely separate trusts is tantamount to getting a "divorce on paper." They think it suggests fractures in their relationship that aren't there, so wholly separate trusts don't work for their needs either from a practical tax or from a personal perspective.

Fortunately for Jim and Carol they can have it both ways. They can enjoy the benefits of a joint trust to maintain their community property, but they can supplement that joint trust with individual trusts to allow them to carefully tailor their individual planning needs for their children from earlier marriages. By carefully designing and documenting their plan this way, we helped them create a plan that is easy to understand, easy to administer, and that ensures that their individual objectives get carried out.

Their plan will best preserve the separate assets of Jim and Carol and provide support for the surviving spouse, and also ensure that the community property be divided appropriately among the couples' children. And because Jim and Carol want to protect their kids from potential failed marriages and other misfortunes, they will create trust shares for the kids that last as long as the kids are alive. This does not mean the kids can't enjoy their future inheritance; it simply means that with proper planning, no one can ever take their inheritance away from them.

If you're a partner in a second marriage, contact us today to learn how we can help you build a comprehensive and thoughtful estate plan that honors your relationship and provides the security and predictability you need to preserve the legacy you will leave your loved ones.

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¹ Gretchen Livingston, Four-in-Ten Couples are Saying "I Do," Again (Pew Research Center, November 14, 2014)
<http://pewrsr.ch/1sNFvBr>

² There are nine traditional community property states: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washing, and Wisconsin.