



Debts Can Live On After You

Toward the end, my grandfather paid for everything with a credit card, explaining that if he died, it would be like getting everything free. While great in theory, it only works that way if you die broke or else are very careful how your debts are structured. Dying doesn't always mean the end of your debts. After your death, your estate is expected to settle your debts before assets go to your heirs. Creditors always come first.

If someone has co-signed or acted as a guarantor on one of your loans, they are responsible for the balance after you die. Spouses are also responsible for paying off your debts on joint accounts, regardless of whether they had anything to do with the account. If your spouse is just an authorized user, they will not be required to pay your credit card debts provided you do not live in a "community property" state.

In states which have community property laws, any debts or assets that you've obtained after marrying are also the responsibility of your spouse, regardless of whether he or she is on the loan. Ten states have community property laws: Arizona, **California**, Idaho Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin. In Alaska, residents have the option to make their property considered community property.

Mortgages typically come due on death, unless the surviving spouse can prove financial ability and creditworthiness to take over the loan.

Death can retire federal student loans. It's about the only thing that can. But private student loans made through a bank are typically a claim against your estate.

Is there a way to assure that your heirs receive something from your estate? In most cases, life insurance policies, IRAs, 401(k)s and other tax deferred retirement accounts, along with brokerage accounts are protected from creditors as long as you correctly establish your beneficiaries. If you do not have legal beneficiaries established on your accounts, the balance goes into your estate and is subject to creditor claims.

Can you just give away your assets prior to dying to avoid the claims of creditors? Not necessarily. While you are entitled to give away up to \$14,000 per person without incurring federal gift taxes, if you do this shortly before you die, your creditors could sue the people you gave/or sold assets to at under market value claiming a "fraudulent transfer."

Given you can't take it with you, it makes sense to sit down and figure out how your heirs can take it with them in the event you die. And, it is particularly important to make certain spouses are not burdened with debt they may not be able to afford.

Sincerely,

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