

Where there's a will there's a way – what you need to know about inheritance – Part Two

Carly Doshi: Hello, and welcome to Women and Wealth, Doing It All. An HSBC Private Banking series by women for women. I'm Carly Doshi and I'm the Head of Philanthropy, Family Governance and Family Office Advisory.

Women on average have a higher life expectancy than men, and yet, as we all know, we continue to earn less. This means we have to be even more mindful of our wealth and managing it over the course of our lifetimes. And this is exactly why we wanted to create this program of podcasts to inspire and empower you to take charge of your wealth and your future. So, with the help of some experts, we decided to dive into what this all means. How do successful women manage their wealth, effectively work with their advisors and stay on top of it all while continuing to manage businesses, their families and their other obligations? Each episode, you'll hear me engage with HSBC subject matter experts who every day work with women like you on important financial topics, from investing in your future to protecting your finances from divorce, death and disaster, to being part of something that outlives you.

Now, like everything these days, we're recording this podcast remotely from our respective homes, so please accept our apologies in advance for any glitches in sound or background noise.

I'm joined once again by Linda Elfenbein, **Head of Fiduciary Services at HSBC Private Banking US**. We've had Linda on this program before and on a previous episode, she and I kicked off our conversation on inheritance and passing on wealth across generations by covering what estate planning actually entails, why women should care and how to get started. We also considered taking care of aging parents.

Today, we're going to dive a little bit deeper in the discussion on wills, what they do, what to think about when writing yours, what happens if you die without a will, steps to take when a loved one passes away and finally, estate taxes.

Hi Linda, thanks for joining again.

Linda Elfenbein: Hi Carly.

Carly Doshi: Let's start by talking about wills – and in particular the appointments needed, for example executors, trustees and guardians. Who do you recommend someone names to these roles?

Linda Elfenbein: Well, Carly, it's really interesting. I think that that answer varies from family to family. That decision is really unique for each and every family. Many people will choose family members to serve in those roles as executor, trustee and guardian. Sometimes the same person can serve in all of those roles or sometimes people can choose varying people to serve in these roles. You can have a sibling serve as your executor, perhaps you want a professional acquaintance or such as the bank.

Carly Doshi: What are the benefits of using a corporate fiduciary? And why would someone name a corporate trustee or executor, not an individual?

Linda Elfenbein: Sometimes families look to corporate fiduciaries because in today's complex environment a corporate trustee has experience and knowledgeable professionals who do this day-to-day so they can administer trusts in a very efficient and effective manner. The use of a corporate fiduciary also allows you to focus on your family at this time of transition. When a will is coming into effect, there's a death in the family so often a family will say I want to focus on the needs of my family. I'd rather have someone else manage all the financial aspects – the administration, the tax return. And also, sometimes it really helps to allow for family unity. It's a very common thing to appoint both children as executors, so not to show favoritism in any way. But will you and your sibling agree on every decision there is to be made? Sometimes children have different points of view, different temperaments. So by appointing your children in these roles, are you helping them, or would it be better to have sort of an outside party assist in this administration and take care of this, instead of laying it all on the family? Corporate fiduciaries can also administer your estates and trusts, as well as assist with the expertise of the investment of those assets. So it simplifies the process and often families find that as a real benefit.

Carly Doshi: Thanks Linda, that's a great point about family harmony and it's something that we have a number of resources on via our family governance offering. And what happens if someone dies without a will?

Linda Elfenbein: Well, that's a very interesting question, Carly. And if you die without a will then what happens is, you leave it up to the state you happen to be residing in at your death to determine who will inherit your property. Those state laws, intestacy laws, vary. In some states, for instance, if you die without a will, all of your property will pass to your surviving spouse. But in other states, some of that property will pass to a spouse and some of that property will pass to your children. Now, what's the right solution? It really varies. It varies because each family's needs are so different and the state is probably not going to meet your unique family needs. So when you don't make a decision, in all honesty, you leave it up to the state to make that decision, and for all of us it's better for us to make the decisions for our families and to make sure things are properly set in place.

Carly Doshi: Absolutely, and we've all seen cases where high profile individuals died without a will in place, and it led to upset within the family, public scrutiny. Again, not

something any relatives want to be experiencing or worrying about at such a time.

Linda Elfenbein: Recently, Prince's death and Aretha Franklin, just to name a few, made real headlines. Both of these high-powered musicians left very sizable estates and no will. These families ended up fighting over these estates. There were lawsuits filed, endless amounts of money spent in these litigations and in the end, everyone of course loses. But this doesn't only happen to famous people, this happens to all of our families. Many people just put off the decision to draft a will. It's maybe complicated, it deals with death, there's decisions they don't want to make. But if you do not leave a will, then you are for sure going to set up a situation where your children will be fighting over what's left. And then there are emotional wounds that are inflicted. These litigations tend to lose all economic basis and people forget what they're really fighting about. It's like divorce among a family. This is something that no parent would ever want. So, truthfully, the moral of the story is you really need to have your estate planning in place.

Carly Doshi: Linda, what happens if someone does this estate planning and then later gets a divorce?

Linda Elfenbein: With divorce rates in this country, that's something that happens to so, so many people. Now, if you are contemplating a divorce or if you're in the process of a separation, this is something you should discuss with your marital attorney or with your divorce attorney. It's something you should speak about right away. But, again, what happens if you just don't get to having a new will drafted? There are state statutes in place which do provide that if, for some reason, you do not have a new will in place and you do have one that leaves property to a husband, a named husband that you are now divorced from, the state statute will provide that your will should precede as if your husband predeceased you. So it really is like the state will remove your husband from that will. So there is that protection there. The state does step in and say we recognize that you didn't get to this and we do know that if you have a divorced spouse, you would have intended not to leave property to that spouse. But this also concerns things like life insurance or beneficiary designations on bank accounts. So as part of your divorce planning, this is something you need to review.

Carly Doshi: Many women are outliving their spouses and others of us are receiving inheritances from our parents. Can you provide some instruction on this? What is a woman supposed to do when a loved one passes away?

Linda Elfenbein: You know, I have worked with many, many women over the years after the loss of a spouse. Women of all ages and all backgrounds and many who've never wrote a check during their lifetime. This was just something that their husbands did. And it was my promise to them and I worked with them to help make sure that they would be able to transition. To work through this part of their lives so that they can gain the skills that they need and the comfort they needed to handle their day-to-day finances. I wanted them to be able to work with their professionals and their investment advisors. Empowering women to

handle responsibilities that are first so foreign to them is so important and it's really, this is where your trusted professionals, where you really need to know and understand and have a good relationship with your bankers, with your attorneys, through your lifetime so that they can help you through this process.

Carly Doshi: What are the practical steps you can take?

Linda Elfenbein: On a practical level, talking about what you need to do, there are a number of steps when someone passes away. First of all, you really need to look for their original will. A copy is not sufficient. So that's another discussion really worth having now with your parents. Do you know where their will is? Do they have a safe deposit box? What bank is that safe deposit box at? Did they leave their will with their attorney? That original will is really something you have to know.

Once you have the original will, you need to go to the surrogate. That is a county official who is located in the county courthouse of the county in which the individual resided at the time of death. You need to take the original will there and you present it to the surrogate. That's what's called probating a will. If there is no will, your state will set forth the order of who can apply to be the administrator or the person in charge of the estate.

I'm sure there'll be much of the will you will understand but there's much that an estate planning attorney really needs to look at and to determine. Is there estate and gift tax planning as part of the will? Are there different steps that should be taken now? So it's really important to reach out to those attorneys.

Carly Doshi: Thanks Linda. How do estate taxes come into play with an estate plan?

Linda Elfenbein: So what you need to know is that the Federal Government, as well as many states, levy a tax based on the value of the assets you own at your death. There's a threshold amount you need to reach before this tax is triggered. This threshold amount, often referred to as an exemption amount, varies from year to year and is also subject to change by congressional action. So, especially recently, this threshold amount has changed quite a bit. It's important to discuss this estate and gift tax threshold with your attorney. So is your estate subject to estate tax? Not everyone is but you should find this out because if your estate is subject to estate tax there are various estate planning techniques that can be implemented during life or at death that can help you avoid or at least minimise that estate tax. We all obviously need to pay taxes that are required and imposed upon us, but there are lawful ways that you can use to avoid or minimise those estate taxes. So it's important to take advantage of that because people who have a developed estate plan are successfully minimising those estate taxes.

In a final note, it's really important for us as women to have conversations that focus on our finances and on taxes and on what we need to do to best manage our assets during life and at death. We really need to have these conversations with our professionals and also with other women, with our mothers, with our daughters. Women need to become comfortable with these topics and need to drive these conversations in the family. And although it's possible to catch up

later in life, it's really best if we can get estate plans in place so that we are set for whatever happens to us. That we can handle and best deal with any transitions. That we make our wishes known, that we have those expressed and that we keep family unity so that we can really provide smooth transitions during difficult times in life.

Carly Doshi: Thank you so much Linda. That was fascinating and so helpful. I think we all learned a great deal about the benefits of using corporate fiduciaries and how they can maintain family harmony. The critical importance of having a will and keeping it up to date. And as always, why open and honest conversations are vital. If you haven't yet listened to the previous conversation with Linda, please do. There we cover different, but complementary topics. Linda, again, thanks for your time.

Linda Elfenbein: Thanks Carly. It was terrific to be here with you today.

Carly Doshi: To our listeners, thank you for joining us. Today's program was part of a series on Women and Wealth, Doing It All by HSBC Private Banking. We sincerely hope you enjoyed our discussion and found it inspiring, informative and also empowering. Let's keep the conversation going. For more on today's topic and other wealth management and planning solutions, visit us at [hsbcprivatebank.com](https://www.hsbcprivatebank.com) or if you have a Relationship Manager reach out directly to them. Thank you for your time today.