

Planning Ahead



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Who Pays Your Debts When You Die?

I was recently asked who has to pay for someone's credit card debt after they die? My friend was very worried her children would be saddled with her debt. In the case of a small estate, the answer is probably nobody.

The general rule is only your estate is responsible for your debts when you die. If debts are greater than the value of the estate, then the full amount of the debt will never be collected. The big exception is if there is a co-signer on a loan (think parents co-signing for a student loan or car loan) or if a credit card is a joint card, the other person will remain liable.

Other special cases include a car loan which if left unpaid may result in the car being repossessed, or a home loan if not paid may result in foreclosure.

A surviving spouse may have to pay a deceased spouse's debts, which may include final hospital and doctors' bills.

On the other hand, property held in joint tenancy, life insurance and accounts, including retirement accounts such as IRAs and 401ks, with named beneficiaries pass outside of the estate and won't be liable for debts at all.

Debts of a deceased person are paid by the Executor or Trustee from the assets of the Probate or Trust. If you receive an inheritance without a Probate or Trust, you may be liable for debts but you won't be liable to pay debts over the amount of the inheritance you receive.

Although most of us can't stand not to pay our bills, in the case of a deceased person, you should not rush to pay the bills. Wait until after you get some good legal advice. Except for the cases described, you should never be personally responsible for the deceased person's debts.