

Equitable vs Equal Distributions

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Although we presumably love our children equally, that doesn't mean distributing our assets equally is necessarily the way to go.

An equal distribution is not always an equitable distribution. There are some cases where an equal split wouldn't be fair. When deciding how to divide and distribute assets, it is important to consider the present and probable future needs of your children as well as what you may have previously provided to each child.

A properly prepared estate plan will have clear instructions and provisions to address previously made gifts and loans. For example, was the money you gave to your daughter last year to help with the down payment on her house a gift or a loan? If it was a gift, should it be considered an advancement against her inheritance? If it was a loan, should it be forgiven at your death or should it be repaid? There is no one size fits all answer, but whatever you decide it needs to be addressed in your estate plan so as to avoid disagreements amongst your family.

If one or more of your children are prospering while another is struggling or dealing with a disability, or has a child themselves with a disability, you may want to provide a bit more for that child, not because you love that child any more than the other, but because you recognize an added need in that child. After all, isn't that the way we raised our kids when they're young? If one child needed an operation, we paid for it without trying to balance the scale for the other child by giving the other child an amount equal to the cost of the operation. We recognized that we give our kids what they need and if one child has a larger need then so be it.

The existence of a family business can sometimes present unique and difficult considerations, especially if some of the kids work in the business and some do not. Issues relating to whether the business should be sold and fairly compensating those who worked or sacrificed in the business can be challenging. This is where collaborating with financial planners and life insurance agents can be very helpful.

There are unique issues and obvious concerns relating to unequal distributions. A child who receives an unequal share may be left with bad feelings. He or she may be mad at you, or at the other siblings. Furthermore, an unequal share can also translate into a lawsuit against your trust or estate. A child with an unequal share could sue for any number of real or made-up reasons, including undue influence and lack of competency.

Similarly, equal distributions can cause problems when, for example, one child feels they may have been entitled to more because they quit their job to be mom and dad's primary caregiver for the past five years, providing them with the best care and allowing them to save hundreds of thousands of dollars in nursing home fees and other expenditures.

Regardless of whether an equal distributions or equitable distributions works best in your particular situation, communicating the reasons behind your decision will help preserve family harmony.

If you have any Estate Planning questions or would like a comprehensive review of your situation, risks, and potential solutions, feel free to get in touch. My contact information is listed below:

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You can also schedule a 30 minute telephone call or Zoom conferencing call by clicking on the link to my [Calendar App](#) and selecting a time slot that is most convenient for you.