

What happens when your spouse receives an inheritance?



MARIYA POSTELNYAK
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Jason Wilkinson and his wife have a biweekly tradition: They make tea, turn off their phones and sit down in the kitchen to talk finances. It's a disarming way to "discuss things that otherwise might get heated or argumentative for people," says Mr. Wilkinson.

This was how the Saskatchewan-based couple broached the topic of Ms. Wilkinson's future inheritance, which they decided would go into a separate account under her name rather than a joint account. "If we ever split up, that money will be hers," says Mr. Wilkinson.

The couple's pragmatic approach is far from the norm. Individual inheritances received during marriage are legally exempt from a couple's divisible family assets – when kept separate – often making them a highly contentious topic.

With \$1-trillion in inheritances being handed down to Canadians before 2026 – according to Environics – couples will need to understand what they're in for. There are several factors that make managing an inheritance as a couple more complicated, with some variations by province. The first, unfortunately, involves considering the likelihood of divorce.

"Whenever there's an inheritance received by a spouse during the marriage it's very common for it to be part of a property dispute if they separate," says Kristy Warren, a Toronto-based family lawyer at Epstein Cole LLP.

In fact, a sense of unequal entitlement to inherited assets can breed friction even before a separation. "I've seen a lot of couples become very disjointed when it comes to how to manage their inheritance – especially where one person's racking up debt and the other one's trying to save," says Laurie Campbell, a business consultant and former CEO of Credit Canada Debt Solutions, a debt counselling non-profit.

"One partner may say, well, let's pay off the debt and the other partner may say, no, you know what? This debt was created by you. I want to make sure this money goes into an investment that will secure my future," she says, "And plus, the money was left to me!"

Things get more complicated if a spouse receives an inheritance during the marriage that generates income.

For instance, explains Bruce Reid, an Edmonton-based lawyer at Long Family Law, if someone inherits money and invests it separately from their spouse, whether in real estate or something else, it will remain exempt from division.

“But if the inheritance generates income over the course of the marriage, such as rental income, that income may be subject to division,” says Ms. Warren.

In the case of divorce, the couple and the courts must begin the arduous process of tracing the original inheritance to try to identify which assets might be exempt. The courts will need to determine, what was the principal amount? Where was the money invested? And, how did it grow?

In all cases, the timing of the inheritance is important. Any assets inherited before marriage would be considered communal and would usually be divided in the event of a split. The couple would also “equalize and share any growth in the inheritance between the date of marriage and date of separation,” says Ms. Warren.

If a spouse wants to avoid battling over inheritance in the first place, lawyers recommend separating the assets from the start. “A best practice is to put that inheritance into a separate account in their own name and just let it grow – if they start co-mingling that money they run the risk of not being able to exclude that asset,” says Ms. Warren.

But being ultraprojective of your assets might not be great relationship advice. “Even if it’s legally entitled to one person, wouldn’t you want to be on the same page about how it’s used?” says Kimberly Moffit, a Toronto-based relationship therapist.

To ease conflicts, she recommends having regular financial meetings as frequently as once a week – “even if just for a few minutes.” Start by discussing long-term goals, and then work backward to see how inheritance and other assets can support those goals, she says. So far, this approach has worked for the Wilkinsons. “If we’re together, the inheritance is mutually beneficial. If we separate, it’s fair as well,” says Mr. Wilkinson.