

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

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 by Linda Elfenbein, HSBC Private Banking's US Head of Fiduciary Services. Linda is an extremely knowledgeable estate planning attorney. She practiced law for 25 years before joining HSBC and she's also taught estate planning at Rutgers Law School. Linda's here to explain what women need to know about inheritance – why this topic matters, what to do when receiving one, planning for your own and passing on your wealth across generations. Now, because this is such a meaty topic, we're lucky to have Linda join us for not one, but two installments in this series. And today, we'll focus on what estate planning entails and why it should be front of mind for all women, as well as how to get started. We'll also consider the crucial matter of taking care of aging parents, a topic that I know is on the minds of many of us.

Linda, welcome, and thank you for being here.

Linda Elfenbein: Hi Carly, I'm really happy to have this opportunity to speak to women about their financial needs and how estate planning is an important tool in protecting their wealth.

Carly Doshi: Great. So I wanna start by asking you a question that I'm sure is on the minds of many of us. Is estate planning a woman's issue and why should women even care?

Linda Elfenbein: Carly, I think estate planning is absolutely a woman's issue. Women's economic power over the past decades has just grown tremendously and women are amassing greater and greater amounts of wealth than ever before. Women make up half the workforce in the US, so they are accumulating earned wealth. Women statistically also outlive men, so they inherit from their spouses as well as from their parents.

Carly Doshi: Yeah.

Linda Elfenbein: So women are also accumulating inherited wealth.

Carly Doshi: Absolutely.

Linda Elfenbein: As we know women also tend to be main caregivers in their families. They're in charge of it all. So taking care of their family's financial needs is something they should also think about. And, with that said, we know that women are juggling so much. They juggle work, they juggle families, perhaps taking care of their children as well as aging parents. So estate planning is something that can often be pushed to the back burner for so many of us. There are literally not enough hours in the day, and I totally understand that, but this is something that women really should be focusing on. They need to really focus on this for the benefit of their family.

But women are not alone. There are literally 6 out of 10 individuals in the United States that do not have a will. So many of us, men and women, are putting this off. And there are real consequences to not having an estate plan. I do not want women to shy away from these conversations because they don't really know where to start with them. Every woman should really give careful consideration to how to manage their wealth during their lifetime and how to pass that wealth at their death.

Carly Doshi: Understood. So we know that estate planning is important, but what exactly is it and how do you get started?

Linda Elfenbein: In terms of estate planning, there's numerous things we consider, but there are things that we can do before we reach out to attorneys to assist in this. To start, you should inventory your assets. What do you own? How do you own it? What are the estimated value of your assets? Next, how are your assets titled? This is often such an afterthought and there really are unintended consequences due to not understanding the titling of assets. Your will only controls property in your own name. Often a husband and wife, just sort of for convenience purposes, will title everything as joint tenants, not recognizing that that titling will determine who receives the property on the death of a spouse. If you own it as joint tenants, whatever spouse dies first the remaining spouse will inherit. Now that often can work, but sometimes that will interrupt estate planning that you

have, that you already have set up, or if you were involved in a second marriage, maybe you want your children to inherit your property. If you have a will that passes all of your property to your children, but all of your property is titled jointly with your spouse, actually nothing will pass to your children under that will.

Carly Doshi: Thanks Linda, that's great. And for more detail on titling, our program in this series on preserving and protecting your assets fully covers this topic. So we have an inventory of our assets. Now what? Is this when an estate planning attorney gets involved?

Linda Elfenbein: Carly, this is absolutely when you should consult an estate planning attorney. And an attorney who specializes in trust and estates is someone who can draft your estate planning documents and determine how you might be able to benefit from estate and gift tax planning. Every person, married, single, divorced or widowed, should have an estate plan in place. And at its most basic, there are three main documents that you should have an estate planning attorney draft for you. The first document is a general power of attorney. This document identifies who should control your financial assets during your lifetime if you are unable to do so.

Carly Doshi: In what kind of situation might you need a power of attorney?

Linda Elfenbein: I had a client that I was working with, in private practice, she was 89 years old. Very capable of handling all her day-to-day bills and financial commitments and, you know, she unfortunately fell one day. She broke her knee and she ended up in rehab and it was complicated in that rehab situation for her to write checks. She didn't feel she had a place securely to leave her check book and to put her bills. So, she was so grateful, I was so grateful, that she had a power of attorney in place. That power of attorney appointed her son. He then, for that time period, those 3 months, was able to go to the bank, present the power of attorney, had signing power over her checks and could take care of all of her finances during her time there. When she was able again, back home, and able to write her checks out and to sort of deal with her bills, her son returned the power of attorney and we went back to normal.

Carly Doshi: That must have been a relief for everyone involved. So, if someone doesn't have a power of attorney in place, what are the repercussions?

Linda Elfenbein: If you don't have that in place, to assist in that situation, you'd actually have to go to court. Have to hire an attorney, have to file a lawsuit to handle and have someone put in charge, which is time delay and costly. So it's really a very simple document that's a very, very necessary component and something everyone should have. Again, with aging parents, general powers of attorney are so necessary because if you have a parent who is beginning to lapse in their capacity, if you have a power of attorney in place, you can take over some of these day-to-day duties. But if you don't have one, it really becomes complicated and once someone does not have capacity, they're not going to be able to execute a power of attorney.

The next document that's a necessary element of estate planning is the medical directives and living will. That document appoints someone to make medical decisions on your behalf and expresses your end-of-life wishes. This is, again, an important document to have ahead of time so that you're not having discussions with siblings or disagreeing about what mom or dad would have wanted. So you need this document in place to express your own wishes.

Carly Doshi: So, we've covered the need for a power of attorney and medical directive. Are there other key documents women need to be mindful of?

Linda Elfenbein: The final document we need in terms of our estate planning is the key document or your will. This document directs who shall receive your property upon your death, in what amount and how they should receive it, either outright or in trust.

So, let's talk about a trust. A trust is where you have a vehicle that provides for a trustee, a third party. It can be an individual or a corporate entity that holds property for the benefit of a beneficiary. It could be one beneficiary, one child, or a group of beneficiaries, all of your children. The property in this trust can only be used for the benefit of the beneficiary. The trustee manages the property. They'll invest it and then they will distribute the property in accordance with the terms of the trust and those terms vary. Those are terms that you and your attorney will discuss and determine what the right provision should be. How often money should be distributed. What ages your children should get various kinds of distribution. Trusts can be set up during lifetime or, as we're discussing, trusts can be set up so that upon your death, when you pass, property doesn't necessarily pass outright to your children but can be passed under this trust where there is this umbrella of protection where your trustee can help invest and handle the management of those assets. In your will, there are also three main appointments you need to consider. You need to consider the appointment of an executor, a trustee, if you're going to have trusts and, finally, if you have minor children you need to appoint guardians for those minors.

Carly Doshi: Thanks Linda. That's a great point. When do you typically recommend women execute their first will?

Linda Elfenbein: Actually as soon as the woman owns assets in her own name, she should really consider having a will prepared. Legally, anyone over the age of 18 can execute a will, but you especially want to consider having a will prepared when major life events occur, marriage, birth of children, divorce, inheritance and absolutely if you move from one state to another. If you're living in New York and you execute a will and you move to Florida, your New York will is effective in Florida, so that's not the issue. But each state has varying laws that apply to wills and what you did draft in New York may not actually suit you when you move to Florida. So if you do move, it is important to consult an estate planning attorney in the new state that you happen to be living in. And once you have a will in place you really should consider reviewing it every 5 years or so. Your attorney can discuss with you whether there has been changes in the tax law that might

affect how your present will is set up. You also should consider reviewing your will when things change for you financially or if there are any changes in your family dynamics. Perhaps you have a child who has gone through a divorce. Perhaps you have children who are suffering from alcohol or drug dependencies and when you created your will maybe you had the money going outright to them and at this point maybe a trust would be a better or a more suitable arrangement. It's not as if you should check that off your list and be done with it. Wills need to change to reflect the varying and changing needs of all of us as things change throughout our lifetime.

Carly Doshi: Thank you so much Linda. It sounds like not only is estate planning a women's issue, but it's something that we should all be undertaking without delay. We should also be actively working with our financial, tax and legal advisors to ensure we have those basic documents at a minimum, that we're considering our family's own unique circumstances and that we do further additional planning for tax and other purposes. Grateful to you for your time.

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

Carly Doshi: Please join us again to hear Linda and I continue this discussion. Next time we'll discuss why having a will is so important, some practical steps for managing the estate of a loved one and how taxes come into play within estate plans.

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.