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How do heirs deal with debt after a loved one's death?

Older Americans are piling up debt at an alarming rate. Adult children may find some surprises when they sort through their parents' finances, either during life when helping a parent who is having difficulty managing their financial life, or after a parent's death when it becomes clear that the parent ran up significant credit card bills to maintain their life style or to care for a spouse. Sometimes the older adult falls prey to scams or just does not have the resources to keep up their house, resorting to credit cards or other borrowing mechanisms. A recent article in the *Kiplinger Retirement Report* talks specifically about dealing with debts after death. (www.kiplinger.com/article/retirement/T021-C000-S004-dealing-with-debts-after-death.html).

A lot of older people do not want to worry their children and don't want to talk about their money problems. They worked their whole lives and maybe are embarrassed. Or they want to make sure that a spouse is getting the best care possible. Whatever the reason, according to AARP's Public Policy Institute, the percentage of families with debt headed by someone ages 65 to 74 rose from 50% in 1989 to 66% in 2013. This is per the Federal Reserve's latest Survey of Consumer Finances. Debt loads nearly doubled during that same time period for these same consumers, increasing from about 21% to 41%. This can be very frightening for children who are now trying to settle a parent's estate (or any other relative for that matter). Are the heirs personally "on the hook" for the debt?

Generally, when a person dies, his or her estate owes the debt. If there are insufficient funds to pay the debt, it is usually not the heir's responsibility. If there are funds remaining in the estate, then debt is paid in a particular order as per the laws of the state in which the decedent lived and passed away. *Unsecured* credit card debt is not usually inherited by the heirs, no matter what the money had been used for. A child who is a joint owner of the credit card, however, may be liable. In any event, it is better to consult an attorney versed in estate administration to make sure that you do not run afoul of issues with debt that has been secured or filed in court. Such claims can be "compromised" or reduced in amount but be wary of the income tax consequences if such a step is taken.

Retirement plans with a named beneficiary or beneficiaries cannot be claimed by creditors of the deceased person. But if the decedent did not name a beneficiary, however, creditors can make claims against such accounts that are payable to an estate. This is another reason that retirement account holders need to be aware of the advantages of naming beneficiaries and contingent beneficiaries.

A few other areas of concern mentioned in the article are when there is a mortgage on real estate, co-signed private student loans and federal student loans for the parent, as well as Parent Plus Loans when there are outstanding balances at death.

Making assumptions on how to deal with debt in an estate is fraught with pitfalls. Make sure that you consult with an experienced estate administration attorney to determine what is payable and what is not.