

Planning for Responsible Inheritance: What "Brewster's Millions" Can Teach Us About Estate Planning

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The plot of the 1985 comedy "Brewster's Millions," starring Richard Pryor and John Candy, centers around Montgomery Brewster, a minor league baseball player who stands to inherit \$300 million from a previously unknown great-uncle. The catch? To receive his inheritance, he must spend \$30 million^[1] within 30 days without receiving any assets in return, and without merely giving away all the money. If Brewster does not spend the entire \$30 million in 30 days, he will inherit nothing. Hijinks ensue.

At its core, the movie is a satire on capitalism and consumerism, playing on the common fantasy of inheriting a life-changing fortune from a wealthy relative. However, the film also explores a common concern that many clients have when making their estate plans. They are worried that their beneficiaries will squander their life's savings and exhaust their inheritance on luxury items or speculative investments. These clients consider how they can ensure that their beneficiaries will responsibly manage a significant inheritance.

Brewster's great-uncle explains that his contest is not an arbitrary one. He wishes to teach Brewster a lesson, to hate spending money so much that he will learn to manage his inheritance wisely. By forcing Brewster to exhaust a fortune, he teaches Brewster to think very carefully about how he spends his money, making strategic and methodical decisions in pursuit of a singular goal.

While the movie's plot is exaggerated for comedic effect, in reality, there are several well-established estate planning techniques a client may consider to instill fiscal responsibility in a beneficiary without going to such extremes.

Staggered Distributions and Trustee Discretion

It is common sense that a client would not wish for a minor beneficiary to receive an outright inheritance, and virtually all wills and trusts will provide that a minor's share will be held in trust until a milestone birthday. This ensures that a beneficiary will not receive their inheritance outright until they attain a mature age.

To further mitigate the risk of a beneficiary squandering their inheritance, a client may stagger distributions over a significant period of time. For example, the client may direct that the beneficiary's inheritance be held in trust until the beneficiary turns 25, at which time one-third of the trust assets will be distributed outright. A second distribution of one-half of the assets may be made at 30, with the assets becoming fully distributable upon the beneficiary's attainment of age 35. This approach enables beneficiaries to mature into their inheritance gradually.

While the assets remain in trust, distributions may still be made by an independent trustee pursuant to an ascertainable standard, such as for the beneficiary's health, education, maintenance and support (the "HEMS" standard). The trustee is

empowered to decide if, when, and how much to distribute to the beneficiary. If, like Monty Brewster, the beneficiary appears to be recklessly spending their inheritance, the trustee can act as a stopgap and cease making distributions.

Incentives

Another common strategy is to incentivize the beneficiary to achieve specific goals to receive distributions. By dangling a “carrot” in front of the beneficiary, the client can guide and influence their beneficiary’s personal development and early career path.

For example, the client may direct that the beneficiary will only receive a distribution upon obtaining a bachelor’s degree; if the beneficiary does not obtain a bachelor’s degree, their inheritance could be withheld for a longer period or even redirected to a charity. A client might further direct that distributions be made to the beneficiary for every year that they maintain full-time employment.

A client could also include directions requiring a trustee to make distributions provided that they are used toward some productive goal, such as the purchase of a home. The client may encourage a beneficiary to keep a family home or vacation house in the family by providing an annual stipend for every year that the premises are maintained in good order.

If the client is uncomfortable with such rigid, dead-hand influence over their beneficiary’s actions, they may still consider imparting some non-binding guidance or wisdom. For example, a client may express a preference for their beneficiary to use a portion of their inheritance for charitable purposes or to support a worthy cause. A client might also suggest, but not require, that their beneficiary employs a trusted family financial manager or accountant to assist them with managing their inheritance.

Designating the Beneficiary as a Co-Trustee

Another great strategy to foster fiscal responsibility is to name the beneficiary as the co-trustee of their trust fund until it is fully distributable. The client will then name a trusted individual or financial institution to serve as co-trustee together with the beneficiary. The beneficiary may be permitted to make distributions pursuant to the HEMS standard, but would not be permitted to participate in making discretionary distributions.

This strategy provides greater flexibility and management over the beneficiary’s inheritance and the timing of distributions, while allowing the beneficiary the opportunity to manage their funds under the guidance and mentorship of a more experienced party. This may be especially valuable when the beneficiary has had little to no financial education or experience managing large sums of money.

Conclusion

Estate planning is much more than merely transferring assets; it is about preserving the client’s values and ensuring appropriate stewardship of the assets they leave upon their death. Estate planners have a variety of techniques and tools that can be employed to protect beneficiaries from themselves, oftentimes used in conjunction to maximize their effectiveness. The key is thoughtful and deliberate planning, exploring with the client the myriad of methods that can be used to achieve their goals and ensure preservation of their legacy.

[1] Adjusted for inflation, this \$30 million bequest would be approximately \$90 million in today’s dollars.