

# Debt After Death

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## Can Debt Be Inherited?

**After the passing of a parent, money is usually the last thing on anyone's mind. But the unfortunate reality is this: if that parent had any debts at the time of death, creditors will almost certainly attempt to collect on those debts.**

There are many questions that come with debt collection after death. Are the children of the deceased responsible for paying the debts off? Which debts are they responsible for? Are there any means for paying off these debts that won't be a burden to their children?

Unfortunately, there's no easy answer. These situations are often regulated on a state-by-state basis. However, there are some general guidelines to understand when dealing with creditors.

### **The First Steps**

After a parent dies, there are several steps that will happen in relatively quick succession. First, any creditors will be notified of the death. Then, the creditors will file a claim for repayment of any outstanding debts to the estate of the deceased person.

**The estate pays for items in this order:**

1. Funeral expenses
2. Federal taxes and administrative fees
3. Outstanding loans and mortgages
4. Credit cards

In many situations, the estate will run out of money before the debts can be completely paid off. Many creditors will utilize debt collectors in order to receive their money.

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### Which Debts Are Children Responsible for Paying?

Debt collectors will do whatever possible to get the necessary money. If the parent dies without any funds or assets, then that debt completely disappears with the death. However, if there's money or owned property, the estate is responsible for paying back debts—not the children. Unless a child co-signed a loan or credit card application, none of that debt is the responsibility of the deceased's children.

However, in some instances, a child may also be the executor of the estate. In that case, the child is also responsible for guiding the estate in order to pay back any debts. That may mean selling off estate property in order to pay off debts, including a house or any other property owned. It's important to distinguish, though, that the executor is not *personally* responsible for paying off the deceased's debts. They are only responsible for seeing that the estate pays off the number of creditors that it is able with any assets available.

This can mean that, while a parent may intend to leave their children money or property, paying off debt can essentially eradicate anything left to children. It's not an ideal situation, but one that happens in many cases. Creditors will always receive money over heirs.

### The Line in the Sand

This really cannot be overstated: as executor, you are not personally responsible for paying off any of your parents' debts. Some collection agencies may try to make you believe that it is your responsibility, but it's not. While you may have to sell your parents' house, car, or any other valuable assets they may have had in order to pay creditors, none of your personal income should go to paying off these debts.

The Federal Trade Commission has strict guidelines regarding debt repayment. There are three instances in which you may be responsible for paying back the debts of a deceased loved one:

- You are the co-signer of a loan or credit card in the deceased's name (simply being an authorized user on a credit card does not apply)
- You are the widow/widower of the deceased in a community property state (Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin)

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- You are the executor of the estate (but again, you are not responsible personally for any of the debts)

## Handling Debt

Even if your debt dies with you, it doesn't mean that any debt left behind doesn't become a burden to the family of the deceased. As debt collectors call and, in some cases, harass family members for the money they believe they are owed, it can add unnecessary stress to their lives, especially given that they'll likely still be mourning the loss of a parent.

Ideally, the deceased's assets will far outweigh the debts. If this doesn't seem to be the case, there are several steps that can be taken.

1. Consider an estate plan. An estate plan can help ensure that the executor of the estate knows the amount of debt and the assets that will be used in order to pay that debt.
2. Know and understand wishes. If the parent's number one wish upon dying is for his or her children to receive some kind of asset, then steps should be taken to pay down the debt while he or she is still alive.
3. There are some ways to protect assets from creditors. Irrevocable Trusts and Gifting may be some options, but consult with a financial professional before undertaking any movement of assets.

Instead of simply racking up debt as a senior and having no intention of repaying it during life, it may be beneficial to liquidate some assets in order to allow for extra living money. Some assets to consider downsizing or selling are:

- House – moving out of a large house into a smaller, more manageable apartment or townhouse.
- Stocks, bonds, and other investments – while it may be nice to leave behind investments to children, having the money instead of adding debt makes more sense.
- Life insurance policies – some life insurance policies are eligible for a life settlement, where the policy is sold on a secondary market. The policy owner

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receives a lump sum and the buyer takes over payment of the monthly payments.

- Vehicles – depending on your condition, a vehicle may not be necessary for you. Different services can provide rides for seniors, making a car—and gas money—unnecessary.

This conversation may prove uncomfortable, but in the end, it's necessary. It may mean moving into a smaller home or renting an apartment, moving in with children, readjusting budgets until debt is under control, or selling life insurance policies for life settlements in order to pay down debt.

There are many options for handling debt as a senior. Consult with a financial professional about your wishes for your estate, and review every option to help you meet your goals. It may not be pleasant to consider what happens to you, your debt, and your family after you're gone, but planning for it now can remove a lot of potential stress from your family.

**For more information on Life Settlements email Leo LeGrotte at [llagrotte@lsa-llc.com](mailto:llagrotte@lsa-llc.com) or reach him by phone at 844-250-9301.**