

## PERSONAL FINANCE

# Should You Leave Your Home to Your Kids?

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By Sheryl Nance Nash

Debbie Rahn has seen a few families torn apart over whether or not parents should leave their home to their kids.

"One woman had received land from her parents, and she and her siblings fought over that land," says Rahn, a certified financial planner with Plancorp, a wealth management firm. "It was such a bad ordeal she didn't want to put her kids through that. She decided that when she dies, the property will be sold and the money distributed to the children."

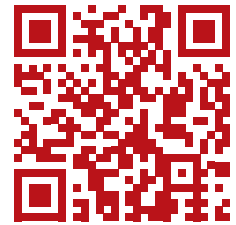
To avoid a family drama, talk to an estate planning attorney and financial advisor, and just as important, have family discussions about how you want to settle your estate.

### When to Think Twice

Do your children get along? Will they be able to agree on anything? If not, you might want to sell the house, distribute the money and be done with it.

"One child may have teenagers and need the money for college, so that individual wants to sell the house – while another may have plenty of savings and instead prefer to get rental income," says Deborah Cohn, an estate planning expert. "How to come to agreement?"

One child may want to buy the others out – assuming someone wants the house at all. The children



**James Speir**, Founder of Speir Financial Services has been providing his clients with financial services and meeting their insurance needs for over a decade. For more information please call 888-458-0667 or visit [speirfinancial.com](http://speirfinancial.com)

may be scattered around the country and not have the time or money to handle maintenance, insurance, and property taxes. So an intended gift may be a burden.

If your child has financial problems, pause for sure: A home could be lost to creditors.

Other considerations include your offspring's occupation. "If there's a likelihood your child or children will be sued – if they work as a surgeon, let's say – it might not be a good idea to leave them your home," says attorney Ronald Fatoullah, an expert in elder law and estate planning.

If you deed your property to your children while you're still alive, you also create a number of issues. "You're no longer in control," says Mitch Adel, a certified

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elder law specialist and managing partner at Cooper Adel & Associates. "If Johnny wants to sell your home, he can do it. If he wants to kick you out, he can. If he wants to take out a mortgage, he can do that as well."

Then there are liability issues – or your child could predecease you. In this dramatic case, if your child has a will that leaves everything to a spouse and if you're still living in the home – you may then be at the mercy of your in-law.

### **1. Now Proceed with Caution**

If you're still determined to leave your home to your children, be aware that the process is tricky and full of ways to trip up. Here are several options for passing your home to offspring, each with caveats:

### **2. Stay where you are for now.**

Specify in your will that your kids inherit your home after you die. You maintain ownership and control during your lifetime, plus this is one of the least harmful in terms of tax consequences. If your kids decide to sell the house at your death, they'll be able to keep the cash tax-free. If they sell at a later point, they'll pay a capital gains tax only on the gain since you died.

### **3. Give the house away now.**

With a deed transfer, you gift your home to your kids during your lifetime, and decide with them whether you move out or stay in the house. The tax consequences are less attractive than in the first instance if the children decide to sell the house: They'll need to pay capital gains tax and possibly state income tax on the difference between the initial value of the home and its final sale price.

### **4. Stay where you are, but gift your home now.**

Put your home in an enhanced life estate deed. While not available in all states, this option has its advantages.

You retain the home for your lifetime, with the right to sell it or give it away – yet your kids automatically inherit it upon your death. You avoid probate, a lengthy and costly process – though this option could make it "difficult to sell or refinance your home," cautions Jim Speir, founder of Speir Financial Services.

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### **5. Stay where you are, for a specific period of time.**

You can do this through a qualified personal resident trust. This often overlooked strategy lets you retain the right to live in the home rent-free for a specific period of time and still take advantage of the home mortgage interest deduction rule as well as deduct property taxes.

At the end of the day, passing a home to children is a highly personal decision. "We seem to still put a lot of value into real estate, so people want to keep their homes in the family," says John Palley, an attorney with Meissner Joseph & Palley. "I think it's often impractical – but it's the client's choice."

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