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# Who Gets the Vacation Home?

By Kelly Greene – January 7, 2012

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Is there a way to hand off a vacation home to the next generation so that everyone still wants to spend time together there?

Tensions often mount when a family figures out what to do with a property that could be a lightning rod for sibling rivalries—not to mention a sizable chunk of an estate.

Creating a new generation of family vacationers is the exception, not the rule, and it requires thoughtful planning.

Tryfan Evans, director of investments at Tufts University, is researching the issue for his family's property near Stowe, Vt., which has a stocked pond and cross-country ski trails and which the children of the original owners recently inherited.

Mr. Evans, one of the grandchildren of the original owners, is evaluating the costs and benefits of setting up a limited liability company, or LLC, trust or other structure to accommodate intrafamily transfers and provide a framework for sharing expenses.

**He is on the right track, experts say. One big friction point in such an arrangement is how to pay the costs involved in maintaining a home—including taxes, insurance, utility bills—after the previous owner dies, says Mary Schmidt, an estate-planning attorney in Boston.**

**Other factors to consider: How the family gets along, where they live, what happens when the children who inherit a home get married and who is going to use the property, says Linda Hirschson, a shareholder at law firm Greenberg Traurig in New York.**

Distance and lack of money are the big reasons a family member might want out—and lead to a house being sold.

**Ms. Schmidt recently advised a client who wants to leave a $10 million vacation home to her family to do so in a trust, and to fund the trust with life insurance. That way, a professional trustee can manage the property, and the insurance proceeds can cover expenses. And, if one of the heirs wants to sell, the money in the trust can be used to buy him or her out, she says.**

**What if you need additional money to replace the roof? "The house has to be rented," Ms. Schmidt says. "If I'm the trustee, I say, 'Because we do not have the necessary funds, it will be rented in August.'"**

**Two types of trusts to consider are a dynasty trust and a "qualified personal residence trust," or QPRT. Either could help families take advantage of a temporary increase in the gift-tax exemption to $5.12 million from $1 million for individuals and to $10.24 million from $2 million for couples.**

In the case of an unusual property that a family hopes to preserve for generations, rather than losing "a rare gem you could never recreate as a family," a "dynasty" trust might make the most sense, says Martin

Shenkman, an estate-planning lawyer in Paramus, N.J. Such a trust "could go on forever." And once you've made the gift to the trust, he says, it's no longer subject to estate taxes.

In most cases, he says, the property should be held in an LLC owned by the trust, with the trust typically set up in one of four states that allow them: Alaska, Delaware, Nevada or South Dakota.

A QPRT lets a homeowner give a residence to the trust while still allowing him to use it for a set number of years before transferring ownership to heirs at a discount to the current market value. "If you're looking for a more tax-efficient way to divvy this thing up, the QPRT may be the way to go," says Blanche Lark Christerson, managing director at Deutsche Bank Private Wealth Management in New York.

Also keep in mind whether the heirs would be subject to state estate tax, which may have a lower threshold than federal estate tax, she says. If the state where the property is located has a low asset threshold for state estate tax, and you live in a different state, having the property held in an LLC with more than one member could help shield you from that tax, Ms. Christerson says.

**If estate tax isn't an issue, and the family's adult children get along well, forming an LLC, setting up a maintenance fund and creating an operating agreement that covers rights of use and property management could be enough. Ms. Hirschson worked with a family in which the kids lived "all over" but successfully shared and managed a ski-resort getaway this way, she says.**

**But if the potential heirs don't seem likely to see eye to eye, or some live far away, consider letting those who aren't interested sell their share to the others—possibly using other assets from the estate to do so, Ms. Hirschson says.**

**She worked with a set of parents who wanted to leave a New Hampshire farm to three children, one of whom lived in New York and two who lived in other parts of the country. Ms. Hirschson arranged for bidding by the children, with then money to buy the home coming out of their share of the estate after other bequests.**

Even if one generation of siblings successfully shares the beach house, keep in mind that it isn't likely their progeny would do the same. Unless family gatherings and traditions associated with a place remain strong, they probably won't have the same attachment to it. So when you are setting up a trust or other structure to hold or manage a property, consider building in an exit strategy.

For example, Ms. Schmidt says, if a house is held in a trust, you might want to build in the option, after several decades, to have it sell the property and distribute the proceeds to the living heirs.