

What Happens to My Debts When I Die?

The answer: It depends.

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Sarah Max @Money Feb. 16, 2016

What happens to your debts after you die depends on the type of debt, whether anyone cosigned the loan, where you live, and the size of the estate you leave behind.

If you are married, your surviving spouse will have to assume responsibility for the outstanding debt if he or she cosigned the loan. In states that follow “[common law property](#)” (also called equitable distribution) rules, your spouse may not be responsible for debt that is solely in your name. But in the nine states that follow “[community property](#)” rules, your debt is your spouse’s debt if it was acquired during the marriage.

Your children or other heirs are generally not liable for your debt, unless they inherit assets that are tied to that debt or could be sold to pay the debt, says Stephen Breitstone, a partner and head of the private wealth and taxation group at Meltzer, Lippe, Goldstein & Breitstone in Mineola, N.Y.

In the case of a mortgage, your heirs will need to pay off the loan, continue making payments, refinance, or seek a modification if they want to keep the property. Should they decide to sell the property, the mortgage lender (or any other lien holder) will get first dibs on any proceeds from the sale. “If there are taxes owed against a property, anyone who inherits the property will also inherit the tax liability,” Breitstone notes.

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With student loans, the type of loan is key. [Federal student loans](#) and [Parent PLUS](#) loans are typically canceled when the borrower dies. Private student lenders, however, may hold any cosigner responsible for outstanding debt.

In the case of other personal debt, such as credit cards or medical bills, creditors generally can’t hold heirs liable unless they cosigned, but they can make a claim on the estate, Breitstone explains. In other words, before assets can be distributed to heirs or

other beneficiaries, the estate's executor will need to first settle up on outstanding obligations.

"It's not unusual to negotiate" with creditors, Breitstone says. If the dollar amounts are small or the assets held in the estate are illiquid, creditors may agree to cancel some of the debt. But this comes with a string of its own: Depending on the circumstances, your estate may have to pay taxes on the forgiven debt.