No, Thanks

Sometimes, refusing a windfall can be a wise move. Here's how to do it.

By KAREN RUBE

YOUR GREAT-UNCLE, whom you haven't seen in decades, names you as the sole beneficiary of his $500,000 estate. A windfall? That depends.

While for many individuals an inheritance brings financial relief, more and more people are finding that infusions of assets bring financial complications.

"There are a lot of people who already have large estates who don't want any more wealth," says Ronnie Powell, an estate-planning lawyer in Livingston, N.J.

People with estates valued higher than the federal estate-tax exclusion (which jumped to $2 million this year from $1.5 million in 2005) put elaborate strategies in place to reduce the bite that taxes will take out of their estates upon their death.

"More assets can create new, unwanted estate-planning challenges," Ms. Powell says. "And in the end, the next-in-line beneficiaries," usually the children of the inheritors, "get less because the inheritance has been taxed twice-once after the grandparent's death and again after the parent's death." And in some cases, inheriting hard assets-such as truckloads of household goods-can be a logistical nightmare.

All too often, though, people don't do anything about an unwanted inheritance. If the benefactor is still alive, many people feel uncomfortable broaching the subject, feeling it's inappropriate to presume to be getting an inheritance or to discuss the circumstances surrounding someone's death. And after death, an inheritance often arrives during a time of mourning.

"People aren't thinking about financial-planning options, or don't even know there are any," says Alan Augulis, an estate-planning lawyer in Warren Township, N.J. But there are steps you can take to avoid the burden of an inheritance or ensure that its value for your own heirs is maximized.

If your benefactor is still alive, the most drastic option is Simply to request to be left out of a will. Before going that route, however, you should consider a more flexible, if complicated, alternative: You can ask that the benefactor, rather than naming you directly as an heir, instead establish a "generation-skipping trust"-one that names your children as the beneficiaries.

Such an arrangement offers several benefits. First, if the need ever arises, you can draw income from the trust, even though you don't own the assets outright. Second, because you don't own the assets, the property avoids estate taxes when you die. Finally, any assets that your children don't tap during their lifetimes can be passed to the subsequent generation free of all but income taxes. If you don't have children, a generation-skipping trust can be set up for another member of the younger generation in your family-say, a niece or a nephew.

Again, such trusts can be tricky-and haven't escaped Uncle Sam's attention. For example, any assets placed in a generation-skipping trust that exceed the *current* estate-tax exclusion-the maximum this year is $2 million-would be subject not only to estate taxes of up to [illegible], but

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MS. HUBE IS A WRITER IN WESTPORT, CONN. SHE CAN BE REACHED AT ENCORE@WSJ.COM.

Strict Guidelines

The process of refusing an inheritance, known as a "disclaimer," is an important tool in estate planning, but the rules are strict. A disclaimer must meet five requirements:

- **YOU MUST NOTIfY THE EXECUTOR** of the estate in writing that you have elected to disclaim the bequest.
- **THE LmER MUST BE SUBMmED** within nine months of the death of the person leaving the property.
- **YOU MAY NOT** USE, tap or benefit from the inheritance before disclaiming it.
- **YOU MAY NOT DIRECT** where the property you are refusing will go.
- **YOUR DECISION TO REFUSE** the inheritance must be irrevocable and unconditional.

Source: WSJ reporting

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also to a generation-skipping tax of up to 46%. In short: You'll need a lawyer.

If it's too late for advance planning and you receive an'unwanted inheritance, a final option remains: You can disclaim all or part of a bequest, which means you formally decline to accept it.

To disclaim financial assets or personal property other than real estate, you must submit a signed letter to the executor of the estate stating your intention. For a house or property, you must submit a written letter to the records office where deeds are filed in the county where the real estate is located. In either case, a letter must be submitted within nine months of the death of the benefactor.

Hands Off

In most cases, a disclaimer will be valld only if you haven't already accepted any of the inheritance. If you have cashed a dividend check, for example, you will be ineligible to disclaim property, Mr. Augulis says. However, if you inherit a house that you were already living in, you still have the right to disclaim the property.

If you disclaim an inheritance, you don't decide who gets the assets instead of you. "You're treated as though you predeceased the grantor, and the assets go to the secondary beneficiaries named in the will," Ms. Powell says. If there is no secondary beneficiary, state law determines who gets the inheritance.

As long as the assets would go to your own beneficiaries-say, your children-a disclaimer usually is preferable, from a financial standpoint, to accepting the assets and then gifting them to your kids, Mr. Augu1is notes. That's because any gift above a certain amount per year-for 2006 the amount is $12,000 per recipient-reduces the giver's estate-tax exclusion. So, for instance, a $100,000 gift to a child this year would reduce your estate-tax exclusion when you die by $88,000. With a disclaimer you avoid such tax implications, and the assets still end up going where you want them to, Mr. Augulis says.

Correcting a Mistake

A disclaimer can also be used by a surviving spouse to correct a big oversight that some people make in their estate plans.

Here's how: Take a couple with a $4 million estate. Ideally, they should consider setting up a trust that is funded with an amount equal to the current $2 million estate-tax exclusion. Upon the death of one spouse, the trust gives the surviving spouse the right to use the money if needed, but assets in it will pass to the children tax-free after the second spouse dies.

This structure preserves more assets for the kids, because it enables them to take advantage of two estate-tax exclusions rather than one-they inherit the trust tax-free as well as $2 million from. the estate of the second parent, also tax-free. So ultimately the children stand to inherit the entire $4 million without having to pay any taxes on it.

Without such a trust, "the kids only get one exemption amount when that second spouse dies," Mr. Augulis says. In this case, that would leave them with only $2 million of their inheritance tax-free, and about a $900,000 federal tax bilI for the remaining $2 million.

Many people haven't set up a trust or, if they have, they haven't fully funded it. "The estate-tax exclusion has been growing incrementally in recent years, and many people haven't been keeping up with it and putting more in their trusts," says Matt McGrath, a financial planner in Coral Gables, Fla. While the exclusion is now $2 million, in 2001 it was $675,000. By 2008 it will rise to $3.5 million, and by 2011 it will sink back to its 2002 level of $1 million unless Congress changes the law. (You should also consider your state's estate-tax exclusion when funding a trust.)

For some people, more assets bring financial complications

But if a trust hasn't been set up, a surviving spouse can elect to disclaim $2 million of his or her inheritance. Assuming the kids are named as next-in-line beneficiaries, the disclaimed assets would go straight to the children free of federal estate taxes. (For children under 18, disclaimed assets are placed in the control of a guardian.> If a trust has been set up but is only partially funded, the disclaimer could be for the balance of the estate-tax exclusion; so a $1 million trust could be combined with a $1 million disclaimer, for example. In either case, when the surviving spouse dies, the kids would benefit from a second estate-tax exclusion, on the second spouse's assets.

For those who have charity in mind, rather than disclaiming an inheritance you can accept it, and donate the money. And you will still benefit. "This won't save in estate taxes," says Peggy Ruhlin, a financial planner in Columbus, Ohio, "but you can get an income-tax deduction for the amount you give." ■