

WHY ADDING A CHILD AS A JOINT OWNER MAY NOT BE A GOOD IDEA



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Individuals are often interested in ways to transfer their assets at death without having those assets go through a probate proceeding. Those same individuals are also often interested in accomplishing this without having to visit an attorney or execute a Will or a Trust. Thus, this leads many individuals to add their children as joint owners of their assets; however, this is not necessarily the best option and there are better ways to transfer assets to children at death.

Many adults as they age, and especially after the death of a spouse, will add a child or children to their financial accounts and real estate. The goal is for the asset to pass to the child after death without the need for probate and also, in regards to financial accounts, allow the child to assist the parent with asset management as the parent ages. However, when a parent adds his or her child as a joint owner to assets, the parent is often unknowingly putting those assets at risk. Once a child is added as a joint owner that asset is deemed to now be an asset of the child. The child can remove money from the account without the approval or permission of the parent; thus, if the child is not trustworthy, they could empty out the account without the parent knowing. Even if the child is trustworthy, the account as an asset of the child is then subject to payment of the child's debts. If a child is sued by a debt collector or is involved in a costly accident, the account could be accessed to pay the debt, even though the parent is not responsible for the debt itself. Thus, the parent through no action of their own could actually lose most or all of their financial assets due to an unexpected debt or accident of the child.

In addition, many parents will make one child a joint owner on an asset with the expectation that that child will then divide the asset with his or her siblings after the parent's death. There are several issues that can arise after the parent's death that end up defeating the parent's goal. Since the asset would pass to child as the surviving owner immediately upon the parent's death, the child is legally not required to divide the asset with his or her siblings and could decide not to abide by the parent's wish and instead keep the entire asset. Even those children that do want to abide by a parent's wish may find it difficult to do so. The child could have difficulty sharing the asset due the federal gift tax. The federal gift tax is a topic for another time, but it is important to note that the federal gift tax can wreak havoc on a parent's plan if the amount to be given to a sibling exceeds the annual gift tax exemption, which is currently \$18,000. Also, if the child that is the owner incurs creditor issues while owning the asset, then the asset could be consumed by those debts before being split among siblings. Thus, if a parent is wanting an asset split proportionately among his or her children there are better ways to accomplish this goal.

Adding a child as a joint owner during the parent's life could also have adverse tax effects for the child. The child would take the parent's basis in the property when he or she is gifted the interest; however, if a child were to inherit the asset at the parent's death the child would receive a step up in value to the value of the asset at the date of the parent's death. In addition, adding a child to an asset as a joint owner

would trigger a gift from parent to child. If that gift was over the annual exclusion amount, the parent would have to file a gift tax return.

A better way to handle transfer of assets to children is to do estate planning. There are several options available that can accomplish the parent's goals of transfer, including avoiding probate, that avoid the issues mentioned above. If the parent needs assistance in managing assets during life, the use of a Power of Attorney can satisfy this need and avoid the issues mentioned above. A parent should consult with an attorney regarding the best way to accomplish his or her goals before adding children to assets and the consequences could be detrimental to the finances of the parent and could leave some children without an inheritance.