

ESTATE UPDATE

THE ESTATE PLANNING & LEGAL NEWSLETTER OF THE LAW OFFICE OF SJOSTROM, LOFTHUS & ROUSAR, PLLP

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SHOULD I NAME MY CHILD AS A JOINT OWNER OF MY ASSETS IN ORDER TO MAKE THINGS EASIER?

Joint tenancy is a form of property ownership where two or more people jointly own an asset. In the event of death of one of the joint tenant owners, the remaining owner(s) have title to the whole, not under the direction of your Will.

Often married persons have assets held in joint tenancy; so when the first spouse dies, joint tenant assets belong to the survivor without a probate. In general, this form of asset ownership makes sense, and is commonly used, by spouses. However, the intended result and the actual outcome may be different when a parent adds a child as a joint tenant owner of an account.

Here is the common example: Mom wants to be sure that her daughter can pay bills in case of a disability; so Mom makes daughter a joint tenant **owner** on the account. Daughter can now handle the account for Mom, but there are risks to this arrangement. Daughter, as an owner of the account, can withdraw funds. The daughter's creditors can likely levy or attach the account if the daughter

doesn't pay her own bills.

Another risk has recently been argued in Minnesota Court cases when a parent made one child a joint tenant owner of assets. After the death of the parent, despite the fact that the surviving joint tenant child now owned the account alone, the other heirs contested the joint tenancy. The other children argued that that the parent used that form of account ownership merely for convenience and never intended it to belong solely to the surviving joint tenant.

If a parent has only one child who is honest and doesn't have creditors lurking, none of this foregoing issues may be a problem. As an option to actual joint ownership, a child could also handle Mom's account if Mom has a Power of Attorney granting authority to the child. Alternatively, Mom could make the child a signer on the account. Be sure to carefully consider whether to use joint tenancy ownership with your assets. Consult your attorney or financial advisor.

When must I take money from my retirement assets?

The tax laws for retirement accounts require that you take a withdrawal of a required minimum distribution ("RMD") from such accounts beginning in the year after you reach the age of 70½. Generally, this requirement affects all types of retirement accounts. The only exception to this rule is the Roth IRA. You are not required to take a distribution from a Roth IRA during your lifetime.

The amount of your RMD will likely be different each year. It is based upon a value of your retirement account and your life expectancy. **Failure to take your RMD results in a 50% penalty.**

With traditional IRAs, withdrawals can be made without penalty after age 59½. Withdrawals before that age generally result in a 10% penalty on what you withdraw. However, there are a few exemptions, including (1) first-time home buying expenses up to \$10,000; (2) College expenses for the IRA owner, spouse, child or grandchild; and (3) Some medical and or disability expenses.

ESTATE PLANNING IS:

TAKING THE NECESSARY TIME TO PROTECT WHAT YOU HAVE SPENT YOUR ENTIRE LIFETIME CREATING.

If you have a **WILL** and it has been more than three years since you have reviewed it, please contact our office for an **ESTATE REVIEW**, the first ½ hour is **FREE**.

If you have a **TRUST** and it has been more than one year since you have reviewed it, please contact our office for an **ESTATE REVIEW**, the first ½ hour is **FREE**.



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RETURN SERVICE REQUESTED

LEGAL PLANNING TIPS: SMALL IDEAS WITH A BIG IMPACT

ESTATE PLANNING TIP: BENEFICIARY DESIGNATIONS - We always remind clients of the importance of double checking the status of beneficiary designations placed on IRAs, life insurance, annuities and anything else that allows you to name a death beneficiary. Errors and omissions do occur. Too often, we find the situation where clients inadvertently named only two of their three children as beneficiaries on a retirement account many years ago. Without updating that designation, the clients may unintentionally disinherit family members. We encourage you to review all of your beneficiary designations on a periodic basis to make sure those designations match your current desires for the distribution of your assets. Changing or updating incorrect designations can be easier than you think.

BUSINESS PLANNING TIP: PRENUPTIAL AGREEMENTS - Those who marry in their early years generally don't have many assets and have little reason to worry about discussing a prenuptial agreement before the marriage. However, when the marriage occurs later, we recommend that our clients to consider such planning. There may be children of either or both parties. There may also be assets of significant value or business assets that require explicit pre-planning for the treatment of those assets in case of death, divorce or legal separation. Such an agreement may cover such issues as use of a homestead or other assets in case of death of one party, some financial provision for the survivor, alimony in case of divorce, or other issues that may apply to each situation. For business owners, a prenuptial agreement can assist in protecting control and management of the business. A prenuptial agreement must be signed at least one day before marriage, so make sure you have time come to the reach an agreement.

PERSONAL PLANNING TIP: WHAT DO YOU CARRY IN YOUR WALLET - In prior editions of this newsletter, we have discussed ways to prevent falling victim to the various identity theft scams that seem to come around again and again. Another way to protect yourself is to take care of what you carry in your wallet. We continue to counsel clients against carrying their social security card in their wallet. Additionally, we have heard that you should not carry receipts in your wallet because a receipt may have enough numbers of your credit card to allow identity thieves to use computer programs which will assist them in obtaining the rest of the numbers of your credit card.

If you would like our newsletter e-mailed to you, please send an e-mail to erousar@visi.com with the word "newsletter" typed in the subject line and your name in the body of the e-mail.

DISCLAIMER: The contents of this newsletter are presented as general information and are not intended as legal advice to apply to any person or particular situation. Additionally, be mindful that the law is constantly changing and you should always inquire about the present state of the law in reference to all matters. If you have any questions concerning any matters covered in this newsletter, you should consult with an attorney for legal advice based on the individual circumstances of your situation.