

Estate Planning and Re-Titling Assets—Why it's Important

By

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There is one aspect of estate planning which is often neglected, but which continues to be a critical importance in order to achieve the best possible estate planning results. Once the documents have been drafted and signed it is important to review the pattern in which assets are held and make appropriate changes to guarantee that the estate plan will be executed as intended and that all the estate planning goals are met.

Those goals might include a reduction in estate taxes, appropriate asset protection planning, a reduction in probate costs, and/or elimination of the probate process as well as other specific goals which may be part of the individual plan. Without follow-up to transfer assets, the typical estate plan, or asset protection plan will not be nearly as effective as it might otherwise have been.

In addition, this is an area where clients oftentimes will get themselves into trouble because they take the position, quite rightly, that transferring assets is something which they can do with relatively little guidance from their attorney. While it is certainly the case that for example, transferring a brokerage account into a Trust or a Family Limited Partnership is something that with correct documentation a client can accomplish on their own, it is important to understand that this critical bit of follow-up is something which clients oftentimes do not do.

In addition, there are some assets for which transfer involves certain legal formalities. For example, transferring real property into a Revocable Living Trust or Family Limited Partnership will always involve a Deed of Transfer which will need to be recorded in the appropriate Circuit Court or other location in a foreign jurisdiction.

These relatively simple acts to move assets and otherwise follow-up on the estate plan, can and do have a significant impact with respect to the efficacy of the estate plan. As a consequence we make it a common practice to assist our clients where requested to do so with this critical task. It is important to remember that this follow-up is not only important from the standpoint of finalizing the estate planning process, but also can yield substantially different results if it is not done according to the plan. While it is often possible to make adjustments after the fact, it is not always the case that we can do so. It is also virtually always the case that a post ad-hoc adjustment will either be less efficient or less effective in executing the estate plan. For that reason it is our recommendation that our clients allow us to assist where appropriate with the funding of their Trust, Family Limited Partnership and other estate planning entities and that in the case where the client undertakes the funding process themselves that we be kept informed of the process so that we can monitor the extent to which asset transfers have taken place. This permits us to assist you in making your

plan as effective and efficient as possible.

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