

Q&A: Consider Making an Estate Check-Up a Multi-Generational Family Matter

Questionable estate planning has gotten some recent attention with the sudden death of actor Heath Ledger. The 27-year-old actor died suddenly this year with an older will that provided only for his parents and other immediate family – he never revised those documents to accommodate his young daughter or the child’s mother.

Though Ledger’s parents told the media that the daughter and mother would be fairly provided for, that’s not the same thing as a solid estate plan that leaves nothing to chance. And if Ledger’s death offers a lesson, estate planning should be done at the earliest point in your life that you start to gather assets and responsibility for others.

In estate matters, it’s a good rule of thumb to review your plans every three years or whenever there’s a material change in your family’s lifestyle – a marriage, a divorce, a remarriage, the birth of children, the loss of an immediate family member or a major rise or fall in assets. Those are the biggies.

For individuals and couples with elderly parents and/or young kids starting out on their own, it might be smart to do a multi-generational estate checkup at the same time. Why? Because in families with significant assets or other pressing financial issues involving businesses or dependents, each generation’s wishes for the dispersal of shared or personal assets should be documented legally and shared with all the relevant parties.

Q: What are some of the multigenerational issues in estate planning?

A: In some families, this may mean the future of a multigenerational family business, perhaps one of the most complex estate issues any family will face. In others, the assets may consist mainly of cash, property and other investments, but similar problems can occur when all the parties aren’t on the same page about who will get what.

Q: What kind of problems can be prevented by multigenerational estate planning?

A: It’s important to realize that estate planning isn’t just about splitting up money – it’s also about disaster planning. If a family hasn’t planned for business succession, it’s possible that other damaging secrets may emerge like problems in the business or significant debt the family might be liable for. Also, the sudden death or lengthy incapacitation of the head of a family may turn chaotic without proper health care or financial directives to manage the person’s illness or the money and business issues that follow.

Multi-generational estate planning may not be the easiest thing in the world to accomplish given how families communicate – or don’t communicate – about money. But such dialogue might be the smartest thing any family does together.

Q: How does an estate plan support a family legacy?

A: Proper discussion, documentation and review of a family’s assets – with the participation of the right legal, tax and financial planning advisers – can keep more of those assets in the family and working to the family’s wishes. In the case of a family business, generations of family members have built careers there or might otherwise be depending on that income to live. Yet a business might not even be at the heart of an issue – families may also have foundations or other charitable activities they’ve supported for years with a certain mission that those in charge don’t want changed. More than a few families have imploded in ugly legal squabbles over these situations and more. The results can be lengthy legal battles with damaging tax consequences,

a potentially unfair split of assets among relatives or simple mismanagement of those assets going forward.

Q: How can estate planning fail?

A: Bad estate planning can happen in the wealthiest of families. It's not unheard of in the richest of families for the matriarchs and patriarchs to die or become incapacitated without proper wills or directives for their heirs. Every adult family member – young or old -- should commit to the creation of such documents and as appropriate have them written in a way that doesn't shipwreck the family fortune or mission, no matter how big or small it is.

Q: What should be done about non-married family?

A: The Ledger situation is a good illustration of the potential for estate problems when couples are not legally married. That's why multi-generational planning should also address estate and child custody arrangements for unmarried heterosexual or gay couples who might or might not have done the appropriate legal planning necessary to secure the estates of their current or past partners and their heirs. At the very least, all family members should understand the need for such planning to avoid conflict later. As non-traditional families become more common, families need to be open to that discussion.