

OWNERSHIP - MORE THAN YOU THINK

You are probably going to want to carve me up in little pieces after reviewing this quite short commentary of one of the most, if not the most, consequential attribute of assets that you own - or do you really own them? Who owns them really?

What's in a name or names or account numbers?

I used to go blissfully about my life not concerned about throwing assets willy-nilly into my name, company name, my spouses name (joint accts. anyone), my partners name (Quit Claim deeds are not good) or a combination of some or all. Then I turned 30 - a couple of generations ago. Have some real assets and real responsibilities. Started listening to myself more. Hey, that's not what I want to happen. I think.

So, here's the answer of what's in a name

Let's talk possession (access), control (votes), entitlement to income, responsibility for maintenance and losses, tax consequences and attribution rules, insurance costs and proceeds. Then it gets really dicey when there are multiple owners of the same property or multiple owners of multiple properties, not even talking about people who are entitled to share assets even though it's not in their name (beneficial ownership).

Sometimes it doesn't even matter who paid for the assets. So to make things a little easier we have attached this flowchart that could help you distinguish the various considerations regarding present and future asset ownership.

One example to share:

Had a client who owned multiple assets (home, recreational property, vehicles, investments all over the place, decent sized company, lots of toys, insurance policies - you name it). He died a happy man and sort of said to me "you can sort it out". What does that mean?

So sorting it all out meant dealing with extended family (a nice way to put it), creditors, tax departments, beneficiaries, and all sorts of government legislation and institutions I now hate, related to tax, family law entitlements, fees and deadlines (property transfer taxes, probate, legal) and my fiduciary responsibility - the usual nonsense, but loveable, world we have created for each other. The problem is these issues all had to be dealt with in a mindful excruciatingly detailed manner. I thought I was going to lose control at some moments - of my mind - and some of the assets.

And the thing that struck me the most, is that the name of the owner of the assets (the deceased - now the estate) had a lot to do with the outcome in certain instances (tax, liabilities

to creditors, bank requirements) and little to nothing to do with the end result in other circumstances (claims under the wills variation legislation -those phantom beneficiaries - "but I was promised" they said), spousal entitlements (under family law), creditor malfeasance (anyone can make a claim or complaint against anything it seems). Hint. Just because you were named an executor does not mean you have to accept the position.

Just pointing out how serious ownership is and what it involves. Not to be taken for granted. So, my intention is to make sure I own hardly anything before I go- just keep enough to live - transfer the ownership of everything else. Live and let go. Let the new owners worry about it. Don't forget to throw my ashes downwind.

Ken Lagasse.

