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The Pitfalls of Joint Ownership

It is not uncommon for a parent to add a name to his or her checking or savings account, or to any other asset, thereby making the child a joint owner. While this is often done for convenience purposes, it can have serious, unexpected and undesirable consequences. Since the child legally owns the asset, creditors of the child can levy against it and, if the child becomes involved in a divorce action, the child's spouse may attack the interest in the asset as marital property. At a minimum, the existence of the account will have to be disclosed in a matrimonial action.

When you name a child as a joint owner on your account, you empower the child, during your lifetime, to withdraw money - as much as 100% of it! At your death, the child will automatically become the sole owner of the account, thus effectively "disinheriting" other children. While the full value of the joint asset will be part of your taxable estate, it will not pass under the terms of your Will. Therefore, if you want your assets to be equally divided among your children after your death, and for any tax burden to be equally shared, naming a child as a joint owner is a mistake. Naming all of your children as joint owners is a bigger mistake! That increases the chance that your assets will be at risk in the event that a child divorces or suffers bankruptcy or creditor issues. Moreover, if a child dies, that child's children don't inherit.

The majority of married couples own their assets jointly, with right of survivorship. This means that, when the first dies, the second owns everything. Owning assets in this manner may be convenient while both parties are alive because it gives both of them easy access to accounts. Unfortunately, however, if the combined value of the couple's estate, including real property, life insurance, investments, stocks, bonds, mutual funds, annuities and retirement accounts, exceeds \$1 million, owning assets jointly can result in adverse tax consequences. Instead, where the couple's combined assets exceed \$1 million, it is advisable to take advantage of each spouse's credit against estate tax.

Simply put, owning assets jointly may conflict with estate planning. The goal of giving access to another "just in case" can be accomplished without exposing those assets to the risks discussed above. Now is the time to review your estate plan, including the manner in which your accounts are titled, to ensure that your wishes are accomplished.