

SHOULD I ADD MY CHILD'S NAME ONTO MY DEED?

Clients frequently come to my office and ask whether they should add their child's name onto the deed of their house. While it seems like a simple, straightforward question, the answer to this question is complex.

It is important to determine the reason why you want to add the child to your deed. If you are interested in Estate Planning, which consists of avoiding probate and minimizing Inheritance and Estate Taxes, the answer is "no." On the other hand, if your primary reason for asking the question is due to Medicaid planning, such as trying to protect assets if you enter a nursing home, then the answer is "yes."

Unfortunately, you need to be aware of the disadvantages of adding a child's name to your deed, including, but not limited to the following:

1. **Death of the child.** If a parent adds a child's name onto the deed of his/her house and the child predeceases the parent, then the parent will have to pay Inheritance Tax on his/her deceased child's ownership interest in the house.
2. **Child files for bankruptcy.** If a parent adds a child's name onto his/her house and the child files for bankruptcy, the parent's residence is not protected.....
3. **Negative Income Tax consequences for the child.** If the child becomes a joint owner of the property during the parent's life, when a parent adds a child's name onto his/her house, the child loses the opportunity of getting a "step up" in tax basis. If the child simply inherited the real estate upon the parent's death, the child would receive a "step up" in tax basis because the child's tax basis would be the value of the property upon the parent's death.

However, if the child becomes a joint owner of the property during the parent's life, then the child has the same tax basis as when the parent purchased the property. So, if the parent added a child's name onto the deed as joint owners and then sells the house, the children would have to pay capital gains tax on their ownership interest in the real estate, unless the child had made the property his/her permanent residence for two of the five years before it was sold.

When an individual sells property, he/she must pay capital gains tax on the difference between what he/she paid for the property, plus improvements, and what he/she received for it. For example, if an individual paid \$20,000.00 for the house and sells it for \$100,000.00, then the amount of capital gains that would be realized amounts to \$80,000.00. However, married couples may exclude up to \$500,000.00 of capital gains realized on the sale of the principal residence, if they have lived in the

residence, while individuals may exclude up to \$250,000.00 if they lived in the residence.

4. **Financial aid.** When a parent adds a child's name onto his/her house and the child has children who will be attending college, the assets of the parent's child are considered for purposes of financial aid. As a result, by adding the child's name onto the parent's house, the financial aid available to the grandchild may be reduced or eliminated depending upon the facts.
5. **Medicaid consequences.** According to Medicaid's rules and regulations, when a parent adds a child onto the deed of his/her house, the parent has made a gift or transfer of assets. As a result of this gift, the parent will be ineligible for Medicaid unless he/she does not need a nursing home until after the period of ineligibility passes.
6. **Gifts made in contemplation of death.** If a parent adds his/her child's name onto his/her house and dies less than one year after the date of the transfer, then the entire value of the residence will be included for Inheritance Tax purposes pursuant to Pennsylvania law. However, if the parent would have lived more than a year after adding the child's name onto the deed, then only the parent's interest in the property is subject to Inheritance Tax.

When deciding whether or not to add a child's name onto the deed of your house, it is important to determine the reason for doing so, as well as being aware of the disadvantages and consequences associated with this decision. Once the deed is signed and recorded in the courthouse, the only way to make a change to the ownership is for the current owners to execute a new deed. This can become problematic if one of the owners does not want to change ownership.

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