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MISTAKES AND MISCONCEPTIONS: JOINT ACCOUNTS

Estate planning, whether simple or complex, requires careful attention to details which, if overlooked or misunderstood can undermine the plan's effectiveness. We will devote space in each issue to highlight common estate planning mistakes and misconceptions.

Holding assets in joint accounts with a spouse or loved one may not be an effective estate planning tool. For instance, although a joint bank account in the name of a parent and child may effectively transfer the amount deposited by the parent to the child upon the parent's death, in the interim, the funds in that account are subject to the debts and liabilities of the child. If the child is sued and has insufficient sums from which to pay an adverse judgment, the account can be attached, depleting funds which were to have been available, during the lifetime of the parent, for the parent's maintenance and support. If the child divorces, that account may fall subject to litigation tactics. Additionally, if only one child is named on the account, he or she may be unable or unwilling to fully effectuate the parent's wish to divide the funds in the account equitably with the other children without incurring tax consequences. This could lead to inequitable distribution. And if a parent creates an account naming multiple children as co-owners, and one child predeceases, the parent may unintentionally disinherit grandchildren! As far as the government is concerned, the funds held in a joint account are your funds. They are part of your estate for estate tax purposes and are considered yours as far as Medicaid eligibility is concerned unless it can be established that the assets were deposited by the other account owner.