

BERWITZ & DiTATA LLP

Attorneys and Counselors at Law

310 Old Country Road Suite 101
Garden City, New York 11530
Telephone (516) 747-3200 • Facsimile (516) 747-3727

Lawrence N. Berwitz

Maureen R. DiTata

MISTAKES AND MISCONCEPTIONS: RETITLING REAL PROPERTY

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.

One of the most frequently misunderstood strategies in “do-it-yourself” planning is to retitle real property in the name of the children. Homeowners seeking to “protect assets” often do not realize that such a transfer can have estate and gift tax consequences, will result in the loss of the capital gains tax exclusion when the property is sold, and constitutes an irrevocable transfer. It does not take into account the possibility that a child will predecease the parent and exposes the property to the child's creditors. The property can be subject to division if the child divorces.