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Estate Planning | Wills & Trusts

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Lessons from Whitney Houston's Estate

Celebrity estate plans are often the subject of much discussion and speculation with regard to the decedents' relationships and mentality. Whitney Houston's estate will likely be no different. Houston, who died on February 11, 2012, left only a Will, filed in Fulton County, Georgia, which leaves her entire estate to her only child, Bobbi Kristina, age 19. The Will requires the trustee to distribute 1/10 of the trust estate to Bobbi at age 21, another 1/6 at age 25, and the balance at age 30. Until then, the trustee can make distributions for Bobbi's benefit. However, if Bobbi fails to survive the probate of Houston's estate, the assets will pass to Houston's mother, father and two brothers.

Aside from the celebrity gossip regarding Houston and her ex-husband, Bobby Brown, there are many lessons that we can learn from Houston's estate plan.

No Privacy

Whitney Houston's estate plan consisted of only a Will; there was no Revocable Living Trust prepared. Since a Will must be filed with the decedent's county of residence after death, it is a public document visible to anyone who wishes to see it. On the other hand, a Revocable Living Trust is a private agreement between the grantor and trustee so it does not require filing with the government and, therefore, remains private.

In the case of a celebrity, this is obviously a significant concern, but the privacy provided by a Revocable Living Trust can benefit the family and friends of any individual who chooses to utilize it. The private agreement limits the information that is made public and only beneficiaries of the trust are entitled to see a copy of the document.

Probate Required

A testamentary trust¹ is, in many ways, an incomplete estate plan. While a testamentary trust does allow the testator to set distribution terms for the beneficiaries, as Houston did for her daughter and brothers, it fails to accomplish one of the most important goals of estate planning—avoiding probate. Because a

testamentary trust is created by the Will, all of the decedent's individually owned assets must pass through the probate court before being distributed to beneficiaries.²

On the other hand, by establishing a Revocable Living Trust and funding it during her life, Houston's estate could have avoided the probate process and given her daughter immediate access to the assets under the terms of the trust document.

Outdated Estate Planning Documents

Houston's Will was signed in 1993 and a Codicil to the Will was signed in 2000—12 years prior to her death. By 1993, Houston was already an international superstar. It is incomprehensible for someone with Houston's financial status and well-publicized personal turbulence to not have her estate planning documents reviewed for 12 years.

Anyone with an existing estate plan should have it reviewed every two to three years by an experienced estate planning attorney. Additionally, the attorney should be notified any time there is a significant change in the individual's family or financial situation, such as divorce, death or disability of a beneficiary or a significant increase or decrease in wealth.

For a detailed discussion of when and how often your existing estate planning documents should be reviewed, please see the October 2010 Newsletter.

Effect of Divorce

Though Houston's ex-husband, Bobby Brown, was named as a beneficiary if Houston did not have any children living at the time of her death, he would not inherit any share of the estate under Georgia law since Houston and Brown were legally divorced at the time of Houston's death.^{3,4} Fortunately for Houston's family, Georgia law states that any former spouse named in a decedent's Will shall be treated as having predeceased the decedent.

However, to avoid any unnecessary family conflict or litigation, it is always best to update your estate planning documents when such an event occurs.

Whether you have existing documents or are considering consulting an estate planning attorney for the first time, there are several lessons to be learned from Whitney Houston's estate plan. By working with an experienced estate planning attorney to have a proper plan prepared, you can ensure that your estate will be distributed as efficiently as possible.

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1. A testamentary trust is one that is created at the creator's (testator's) death by his or her Will, as opposed to a Revocable Living Trust, which is created by the trust document during the grantor's life.
 2. In Illinois, a probate estate must remain open for a minimum of six months in order to give creditors of the estate an opportunity to file their claims.
 3. Ga. Code, Section 53-4-49.
 4. Illinois law states that upon divorce, the former spouse is deemed to have predeceased the creator for all purposes of the Will or Trust. 755 ILCS 5/4-7(b), 760 ILCS 35/1(a).
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Manish C. Bhatia is an Illinois attorney focusing his practice in the area of Estate Planning. Manish has focused his education and practice on Tax Planning, Estate Planning and Business Succession Planning since the first year of law school. He has also added Asset Protection, Elder Law and Nonprofit Organizations/Charitable Giving to his fields of practice. Manish is also a member of the Chicago Bar Association, the Asian American Bar Association of Chicago and the Indian American Bar Association.

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