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The Estate of "Tony Soprano"

James Gandolfini, the actor who played "Tony Soprano" on the acclaimed HBO series, *The Sopranos*, passed away suddenly at the age of 51 in Rome, Italy on June 19, 2013. Gandolfini left behind a wife, two minor children and an estate that is estimated to be valued at $70 million.

Though his character's activities were far from legal, Gandolfini apparently had a soft spot in his heart for the IRS, because as a result of his poor estate planning, his loved ones will be surrendering approximately $30 million to the government in estate taxes. Though he may have left trusts or other assets with beneficiary designations as well, his Will, which was signed recently (December 19, 2012), subjects his sizable estate to probate and divulges far more information than necessary to the public—two of the many lessons that we can take away from Gandolfini's estate plan.

Gandolfini's Will makes the following gifts:

1. $200,000 to his assistant, Paulette Flynn Bourne (aka "Trixie");
2. $50,000 to his friend, Fatima Bae;
3. $500,000 to his niece, Laura Antonacci;
4. $500,000 to his niece, Jenna Antonacci;
5. $100,000 to his godson, Robert Joseph Parish;
6. $200,000 to his friend, Thomas A. Richardson; and
7. $50,000 to his friend, Doug Katz, with the desire that the gift be used for the benefit of Doug's son.

Gandolfini's son, Michael, age 13, will receive his late father's clothing and jewelry, which reportedly includes a sizable watch collection, as well as the option to buy Gandolfini's Manhattan condominium and parking spot. Michael will also split his late father's real estate in Italy, which includes a house and land, with his half-sister when the infant turns 25, with the wish that the property remain in the family.

The balance of his estate is to be divided and distributed as follows:

1. 30% to his sister, Leta Gandolfini;
2. 30% to his sister, Johanna Antonacci;
3. 20% to his wife, Deborah Lin; and
4. 20% to his daughter, Liliana Ruth.

Privacy

Though his death occurred in Rome, Gandolfini was a resident of the County of New York at the time of his death. Thus, his Will was filed with the Surrogate's Court and can be viewed by the public.

While a Will must be filed with the court after death, a Revocable Living Trust is a private contract between the grantor and trustee. By using a Revocable Living Trust in conjunction with a Pourover Will—which simply "pours" all of the individual's assets into his or her Revocable Living Trust at death to be administered by the trustee under the terms of the trust document without revealing the terms of distribution—an individual can ensure that his or her affairs will remain private and out the view of the public, creditors or any dissatisfied family members or friends. While the benefits of privacy are exemplified by celebrity estates, its value should not be underestimated for all estates.

Through proper planning, information regarding Gandolfini's estate and his wishes regarding its distribution could have been kept private. Instead, the gifts that Gandolfini made and the distribution of the rest of his estate are now public information.

Deferral of Taxes

Tax deferral is one of the primary goals of all financial planning. Not all estates are subject to estate taxes, but those that do exceed the estate tax exemption ($5.25 million in 2013 for federal estate tax) have a valuable tool at their disposal—the unlimited marital deduction. This deduction allows an individual to transfer unlimited assets at death to his or her surviving spouse without incurring any estate tax. The surviving spouse can then spend, gift or engage in further planning during his or her life in order to decrease the estate tax liability of the couple as a whole, thus transferring the largest amount of assets possible to loved ones.

In Gandolfini's case, instead of leaving his assets to his spouse and thus maximizing the assets transferred to his loved ones, he chose to leave substantial amounts to his sisters and children directly, thus subjecting approximately 80% of his estate to the estate tax.

It could be argued that Gandolfini died unexpectedly, but the purpose of estate planning is to plan for the unexpected. Many of the monetary gifts that Gandolfini left by Will could have been made during his life using his annual gift tax exclusion ($14,000 per person in 2013). Though the Will indicates that Gandolfini did partake in some advanced estate planning, such as an Irrevocable Life Insurance Trust for Michael's benefit, transferring a larger amount of his assets during his life would have significantly reduced the estate tax liability.

Trusts for Minor Beneficiaries

As mentioned above, Gandolfini left a significant portion of his assets to his minor children as well as a gift to his friend, Doug Katz, for the benefit of his child, presumably a minor.

Assets that are left to minor beneficiaries must be managed by the minor's guardian until the beneficiary reaches age 18, at which point he or she may take the assets and do as he or she pleases. By leaving such a gift or inheritance in a trust for the benefit of the minor beneficiary instead, the giftor can name the individual who will manage the assets (trustee) as well as successors. The giftor can also set specific purposes for which distributions may be made and impose limits on the amounts the beneficiary may withdraw from the trust.

The trustee will then be required to manage and administer the trust assets for the benefit of the beneficiary as provided in the trust document. While Gandolfini's Will reflects his wish that Katz use the gift for his child's benefit, without a trust, Katz is not legally obligated to do so.

Additionally, one of the most valuable aspects of a trust is the trustee's powers to delay distributions if the beneficiary is engaged in divorce or creditor proceedings, protecting such inheritances from the beneficiary's liabilities. Under a Will, no such protection exists.

International Assets

Gandolfini's Will directs that his Italian real estate shall be divided between his children and that he wishes that the asset remain in the family. However, a foreign jurisdiction may or may not honor a document prepared and executed in the United States. Each state in the United States has its own requirements for the execution of a Will and the requirements of foreign jurisdictions can be far more diverse. In order to ensure that that foreign property is distributed in accordance with your wishes, you should consult a local attorney who specializes in estate planning and is familiar with the inheritance laws and procedures of the country where the assets are located.

Conclusion

It is unclear why Gandolfini would allow his estate plan to be publicly visible and would readily subject his estate to a significant estate tax liability. Through proper planning, matters of the late actor's estate could have easily been kept private and the estate tax liability could have been reduced or eliminated altogether. For these reasons, it is essential to work with an experienced estate planning attorney who will explore all of the planning possibilities that are available to you and your family.

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 Vice President of Professional Development for the Indian American Bar Association and a board member of the Young Professionals of Evanston.

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