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Legal Matters®

Lessons from the Lisa Marie Presley estate

Lisa Marie Presley, daughter of rock and roll legend Elvis Presley, died earlier this year from cardiac arrest. She was 54 years old. Lisa Marie was the sole beneficiary of the Presley estate. In 2005, Lisa Marie sold 85 percent of Elvis Presley Enterprises for about \$97 million and transferred the remaining 15 percent to Promenade Trust.

Elvis' ex-wife, Priscilla Presley, has long helped manage Elvis' estate, so perhaps it's not surprising that she and Barry Siegal, the family's former business manager, were named as co-trustees of the trust. However, weeks after Lisa Marie's death, Priscilla filed a petition challenging the validity of a 2016 document that removed Priscilla and Barry as co-trustees and replaced them with Lisa Marie's children, Riley and Benjamin Keough (the latter of whom died in 2020).

Priscilla is not a beneficiary of the trust, but she is fighting to retain control of how the funds are managed. In court documents, Priscilla alleges she was not notified of the change in trustees, as required by the trust's terms. She also alleges her name was spelled wrong, the document contains a signature that was "inconsistent" with her daughter's usual signature, and the amendment was not witnessed or notarized.



Family disputes like this are always unfortunate, particularly as they come at a time when survivors are also processing loss and grief. Here are some lessons to learn from the situation, to help your own family avoid questions and conflict:

Follow the terms of the trust instrument. The Promenade Trust required that acting trustees receive notice if they were being replaced. If Priscilla wasn't notified, that one simple failure could put trust documents at risk. That's why it's generally a good idea to get help from a qualified

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Wealth taxes rising on state agendas around the country



Last year, Massachusetts voters approved a 4 percent tax on state residents with annual incomes over \$1 million, applying to both ordinary income and capital gains. The tax upended a flat tax system that had existed in the state for over a century. Since then, several

states have floated similar proposals, including Connecticut, Maryland and New York.

Here's a review of current wealth tax proposals around the country:

California: Assembly Bill 259 would impose a 1 percent wealth tax on taxpayers with a net worth over \$50 million, and billionaires would be subject to a 1.5 percent tax. Reportedly, Gov. Gavin Newsom opposes the proposal.

Connecticut: Here, lawmakers have proposed increases to the personal income tax rate, a surtax on capital gains for taxpayers in the highest income brackets, and additional taxes on businesses with gross revenue over \$10 billion.

Hawaii: The state would tax 1 percent of net worth per year for taxpayers with more than \$20 million in assets in the state. It would also lower the exemption cutoff for the estate tax.

Illinois: Under one proposal, asset gains would be recognized yearly as income and subject to a flat tax rate of 4.95 percent. Illinois residents currently pay a flat tax.

Maryland: A proposal would add an extra 1 percent to the state income tax rate on certain capital gains. It would also lower the exemption cutoff for the estate tax down to \$1 million.

New York: One tax proposal here would increase capital gains for joint filers with income above \$550,000. Another would lower the exemption cutoff on inheritance taxes. Meanwhile, some lawmakers are targeting so called "mark-to-market" taxes on unrealized capital gains. Gains from taxpayer stocks, for example, would be included in the taxpayer's income, even if the taxpayer did not sell the stocks.

Washington: The state does not have an income tax. A proposal would place a 1 percent tax on asset values above \$250 million.

It's difficult to predict whether any of these state wealth tax proposals will come to fruition.

What is evident, however, is that wealth taxes have become part of the national conversation. High-net-worth households, and those expecting large asset sales, should consult with an estate planning attorney who can help design a tax mitigation strategy.

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Avoid family feuds in your estate settlement

Family relationships can be complicated, especially when it comes to discussing finances and estate plans.

No one wants to imagine their loved ones fighting over their estate after they're gone. However, there are steps you can take to avoid family discord and ensure your wishes are carried out without conflict:

1. Good estate planning documents: If estate planning documents are done correctly, they leave little room for dispute or challenge. That alone can help diffuse family conflicts.

2. Consider a trust: If you have substantial assets, setting up a trust can help ensure your wishes are carried out and can better protect your assets from any challenges.

3. Communicate early and set expectations: Talk to your beneficiaries about your intentions and the reasoning behind your decisions. That can help avoid any misunderstandings or hurt feelings. You may want to introduce your heirs to your executor, explain your thinking behind certain gifts, and talk

about how you expect decisions will be made.

4. Add a letter to your will: You can leave an informal letter with your will explaining why you distributed your assets the way you did. While it will not be a legally binding document, it may help give your heirs some clarity and closure over your bequests.

5. Update your will regularly: Life changes such as births, deaths, marriages and divorces can impact your estate plan. Regularly review and update your will to ensure it reflects your current wishes.

6. Seek professional advice: Consulting with an estate planning attorney can help ensure your will is legally sound (see no. 1 above) and that your wishes will be carried out as you intended.

Say no to family feuds and yes to peaceful settlements, because nothing ruins an estate like a bad family rivalry. And nothing ruins a family like a nasty estate fight.

With clear communication and support from qualified legal professionals, you can take proactive steps to prevent potential battles among your heirs.

NFTs: What are they and how can you protect them in your estate plan?

Perhaps you've been hearing the buzz about NFTs. Maybe you even own some of these collectible assets yourself. So what are they? And how can you protect them in your estate plan?

What is an NFT?

NFTs, or non-fungible tokens, are a type of digital asset that represents ownership of a unique item or piece of content, such as artwork or a video clip. NFTs are stored on a blockchain, which is a decentralized digital ledger that records transactions and ensures that each NFT is unique and cannot be duplicated or forged.

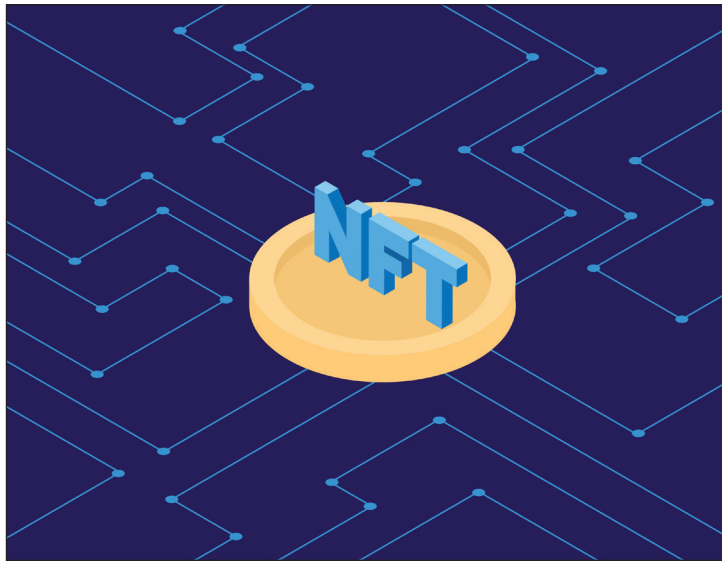
NFTs have gained popularity in the art world as a way for artists to sell their digital work. NFTs are also being used in digital gaming as well as the sports industry. For example, the NBA sells NFTs of its athletes or dramatic plays through NBA Top Shot. One clip of a LeBron James dunk sold for nearly \$400,000 at auction. In 2021, Major League Baseball sold an NFT of Lou Gehrig's "Luckiest Man" speech, with the proceeds going to ALS charities.

Maybe you're scratching your head wondering how someone can sell a video clip of something that's already widely available on the internet for free. If it helps, think of an NFT like a signed baseball card.

A Lou Gehrig baseball card has value in today's collector market. A signed Lou Gehrig card has an even greater value. An NFT of Lou Gehrig's speech sold by MLB is a new kind of collectible. It signifies the owner has a unique digital asset. (While the speech is still available online, not everyone has an official MLB issued file.)

Gifts an NFT in your estate

If you own NFTs and want to pass them along to your heirs, you'll need to include them in your estate plan. Because NFTs are held on the blockchain, you can't hand over a physical version of



the asset. You can't simply email or upload them to someone else's drive either.

In most cases, NFTs can only be accessed with a password or personal key. So in order to pass it to an heir, you must provide the digital access. Without that information, an NFT could be lost forever.

One option is to include instructions for accessing your NFT in your estate planning documents, such as your will or trust. You can include the name of the NFT, the platform where it is stored, and any necessary passwords or keys.

Another option is to use a digital asset storage service that provides secure storage for your private keys and passwords. These services typically charge a fee, but they can provide peace of mind knowing that your digital assets will be accessible to your heirs or beneficiaries after your death.

The future value and regulation of these assets is unknown, and the IRS is considering how to treat NFTs for tax purposes. While laws may be evolving, the best thing you can do right now is to disclose these assets to your estate planning attorney. Your lawyer can help protect them in your estate plan so your heirs can enjoy the value of your collection.

Lessons from the Lisa Marie Presley estate

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attorney who can review trust terms and ensure all stipulations are met.

Review your plan regularly. The 2016 amendment names Lisa Marie's son, Benjamin Keough, as one of the co-trustees. Unfortunately, he died four years after the amendment was created. The lesson here is to review your estate planning documents every few years, or when major life events such

as a birth, death, marriage or divorce occur.

Get essential documents witnessed and notarized. Getting a document witnessed and notarized

(even if not required) can help avoid legal challenges later on. It's possible that Priscilla will argue that the misspelling of her name, along with an "inconsistent" signature, may be signs that her daughter was not in a sound state of mind when the 2016 amendment was created. Having a witness or notary present could have dispelled those questions.

Reportedly, Lisa Marie's beneficiaries are now her daughters Riley Keough (33), and minors Finley and Harper Lockwood. With a trust in place, settling Lisa Marie's estate could have been a largely private affair. Unfortunately, this trustee dispute will likely make a family conflict very public indeed.