

Estate Planning Red Flag

You own property jointly with your child and haven't planned properly

There are certain estate planning strategies that, on the surface, may sound appealing. This includes owning property jointly with a child or other family member. However, in practice, these techniques can result in unwelcome outcomes that outweigh any potential benefits.

To be clear, owning an asset with your child as “joint tenants with right of survivorship” offers advantages. Assets may include real estate, a bank or brokerage account, or a car. When you die, the asset automatically passes to your child without the need for more sophisticated estate planning tools and without going through probate.

But owning property jointly with a child or other family member can result in unexpected outcomes. These include:

Transfer tax exposure. If you add your child to the title of property you already own, it may be considered a taxable gift of half the property's value. And when you die, half of the property's value will be included in your taxable estate.

Increase in capital gains tax. As a joint owner, your child loses the benefit of the stepped-up basis enjoyed by assets transferred at death, exposing him or her to higher capital gains tax.

Exposure to creditor claims. The moment your child becomes a joint owner, the property is exposed to claims of the child's creditors.

Loss of control over the assets. Adding your child as an owner of certain assets, such as bank or brokerage accounts, enables him or her to dispose of them without your consent or knowledge. And joint ownership of real property prevents you from selling it or borrowing against it without your co-owner's written authorization.

Unintended consequences. If your child predeceases you, the assets will revert back in your name alone, requiring you to come up with another plan for its disposition.

Unnecessary risk. When you die, your child receives the property immediately, regardless of whether he or she has the financial maturity and ability to manage it.

The good news is with the help of your estate planning advisor, many of these outcomes can be mitigated or avoided. Using certain trusts may be the answer.