

CLIENT NEWSLETTER

Giftng Your Home to Your Children

Many people think it's a good idea to put their child's name on the title to their home. Sometimes the parent adds the child's name to the title and sometimes the parent changes the title to the child's name. This is generally a very bad idea. Here are five reasons why:

1. **Gift tax return:** If you give your child a gift of equity in the home that exceeds \$11,000 in value, there may be a gift tax to pay and a gift tax return to file.
2. **No gain exclusion:** Tax law allows a taxpayer to exclude up to \$250,000 of the gain on the sale of a principal residence (\$500,000 for a married couple). However, the exclusion is only available if the seller owns and occupies the property for at least two out of the last five years. If the child does not live in the home for that period, the gain on the child's share of the home is fully taxable.
3. **Equity subject to debts of the child:** Property is subject to the debts of its owners. If the child owns the home or is a partial owner, a creditor may file a lien on the property for any of the child's debts. Although your child may have excellent credit and good fiscal responsibility, your home could be lost if there is an accident or a lawsuit.
4. **You are now a renter:** If you give 100% of the property to a child, you are now at the mercy of the child. If the child decides to sell the property, you must move out. There is no guarantee that the child will continue to care for you.
5. **Medicaid problems:** Under some circumstances, the gift of the home to the child could be considered a gift for Medicaid purposes. If you give the home to the child and the child subsequently sells it, you could be ineligible for Medicaid benefits in the event of a long-term health crisis.

What should you do instead?

Usually a parent gives the home to the child to make sure that the child easily gets the home at the parent's death or so the child can manage the affairs of the parent. If this is the case, the parent will be better served by establishing a living trust, along with powers of attorney, so the child can manage the parent's affairs.

If the reason is to help the child buy his or her first house, a better way is to lend the child money with a low but reasonable interest rate, and set up a program to give annual gifts in the form of principal forgiveness.

If the reason for transferring the home from parents to children is to save future estate taxes, there are tax-planning opportunities with Qualified Personal Residence Trusts.

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