

## Common Impediments to an Efficient Estate Settlement, or... “What I wish we had considered before Dad died.”

| <b>Parties to the Settlement</b>                          |       |    |                                                                                                                                                                                                                                                      |
|-----------------------------------------------------------|-------|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Yes                                                       | Maybe | No | Is there a list of names with contact information for key individuals who are a party to the estate settlement? (E.g. Heirs, Professional Advisors, Business Partners, Other.)                                                                       |
|                                                           |       |    | Is there a history of acrimony and mistrust between your executor and any of the beneficiaries of the trust?                                                                                                                                         |
|                                                           |       |    | Is the drafting attorney retired or too busy and not available to help the executor with the settlement?                                                                                                                                             |
| <b>Financial Institutions</b>                             |       |    |                                                                                                                                                                                                                                                      |
| Yes                                                       | Maybe | No | Are there too many accounts and/or financial institutions? (E.g. “It appears that Dad set up a checking account at every bank in town to ‘diversify’ his nest egg.”)                                                                                 |
|                                                           |       |    | Do the beneficiary instructions for any of the non-probate assets – IRA, 401k, Life Insurance, Annuity, Transfer on Death, etc. – conflict with the estate plan? (It’s a good idea to have a copy of these beneficiary forms periodically reviewed.) |
| <b>The Primary Residence (“Mom’s House”)</b>              |       |    |                                                                                                                                                                                                                                                      |
| Yes                                                       | Maybe | No | Will the residence require deep cleaning before it can be sold or distributed? (E.g. “Mom was a hoarder.”)                                                                                                                                           |
|                                                           |       |    | Is there deferred maintenance on the home that must be addressed before sale or distribution? (E.g. “How much is too much estate capital to reinvest in fixing up mom’s house before we sell it?”)                                                   |
|                                                           |       |    | Will it be difficult for the executor to decide whether the family home is to be (1) sold “as is” , (2) renovated then sold, (3) retained and rented or (4) distributed to one heir with equalizing payments to the others?                          |
|                                                           |       |    | Are there any family members living in the home who have an interest in “doing nothing” and continuing their occupancy of Mom’s home indefinitely? (E.g. “Uncle Eddie hasn’t had a job in 20 years and lives with Mom in the family home.”)          |
| <b>The Executor’s Management of the Estate Settlement</b> |       |    |                                                                                                                                                                                                                                                      |

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|                          |       |    |                                                                                                                                                                                                                                                                                                 |
|--------------------------|-------|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Yes                      | Maybe | No | Is this the first time the successor trustee / executor has settled an estate? (How are they expected to do a good job if they have never done the job before?)                                                                                                                                 |
|                          |       |    | Would the executor benefit from having a clear task list prepared which identifies what needs to be done, in what order the tasks should be done and an estimate of how long each task should reasonably take?                                                                                  |
|                          |       |    | Should an updated balance sheet be created with a “source of truth” for each estate asset?                                                                                                                                                                                                      |
|                          |       |    | Do you expect there will be disagreement between the beneficiaries about what is to be liquidated to provide cash for distributions vs. what is to be distributed “in kind”? (E.g. Is it better to sell Dad’s stock and distribute cash to each beneficiary or distribute the stock “in kind”?) |
|                          |       |    | Will the executor need help preparing the required notices, first/final account, estate reserve, disbursement allocation, and the Release of Liability and Contribution agreement?                                                                                                              |
|                          |       |    | Do you expect the executor to be paid for doing their job? If so, do you think it would be helpful to have an independent party evaluate the facts and recommend a level of compensation that is reasonable?                                                                                    |
| <b>Personal Property</b> |       |    |                                                                                                                                                                                                                                                                                                 |
| Yes                      | Maybe | No | Are there any curios, collectables, or bric-a-brac that may cause frustration and hurt feelings during the settlement? (E.g. “I loved the Lionel train set more than you, so I should get it!”)                                                                                                 |
|                          |       |    | Are there any hidden “treasures” among the decedent’s personal property? (E.g. “I think Dad had an 1889 Carson City Morgan Dollar somewhere.” Or “Mom has squirreled away cash in cubby holes throughout the house.”)                                                                           |
|                          |       |    | Is there a safety deposit box or storage locker and does the executor know the location of the key and the location of the box/locker?                                                                                                                                                          |
|                          |       |    | Are there any coins, bullion, gems, or jewelry of material value that will need to be appraised and/or sold?                                                                                                                                                                                    |

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| <b>Real Estate</b>                |       |    |                                                                                                                                                                                                                                                                   |
|-----------------------------------|-------|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Yes                               | Maybe | No | Would it be a good idea to check the title of the real property held by the settlors to make sure its vesting is coordinated with the estate plan? (E.g. We need to probate the house because we thought it was owned by the trust but nobody bothered to check.) |
|                                   |       |    | Is there any out-of-state real estate that will need to be probated? (Check title and confirm the out-of-state asset is in the name of the trust.)                                                                                                                |
|                                   |       |    | Is any real estate held by an entity (LLC, QPRT, Nominee Trust, other)?                                                                                                                                                                                           |
|                                   |       |    | Is any real estate held in partnership with another family or person other than the spouse?                                                                                                                                                                       |
| <b>Difficult / Unusual Assets</b> |       |    |                                                                                                                                                                                                                                                                   |
| Yes                               | Maybe | No | Are there any “unique assets” that are particularly difficult to value, manage, insure, or transfer? (E.g. royalties, mineral rights, patents, art, musical instruments, etc.)                                                                                    |
|                                   |       |    | Are there any time-shares that are more trouble than they are worth?                                                                                                                                                                                              |
|                                   |       |    | Are there any family loans that should be considered when equalizing distributions?                                                                                                                                                                               |
|                                   |       |    | Is there an operating business/practice that warrants a continuity plan?                                                                                                                                                                                          |
| <b>Estate/Trust Matters</b>       |       |    |                                                                                                                                                                                                                                                                   |
| Yes                               | Maybe | No | Is the Settlor in the “Lost Decade” (age 80-90) where little/no planning or review has been done?                                                                                                                                                                 |
|                                   |       |    | Has the estate of the deceased spouse been settled?                                                                                                                                                                                                               |
|                                   |       |    | Are there any “Nominee Trusts” which may have expired or for which there is no schedule of beneficiaries?                                                                                                                                                         |