

# TWO THINGS CERTAIN®

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## **Should I have mom put my name on her house deed?**

*By Jeremy C. Johnson*

Routinely, I am asked if it is a good idea to be put on a parent's deed to their house. In short, the answer is almost always "no." Let's explore the reasoning behind my assertion.

### **Liability Issues**

When your parent places you on their deed, they are 'financially marrying' you with regard to that asset. This means that there is now a liability conduit. If you get sued, divorced, or go bankrupt, their house shows up as part of your asset base. Also, if they are sued, any aggressive plaintiff attorney will vigorously explore if any of your other assets have actual or constructive ownership ties to your parents for purpose of the lawsuit. They may not be successful in attaching your other assets; but, do you want to live under that threat for the duration of the suit?

### **Medicaid Qualification Problems**

Your mom's primary residence is most likely an 'excluded' asset for Medicaid Qualification purposes while she is the owner. The moment she puts you on the deed, she has 'gifted' a portion of the house which now makes it a countable asset for Medicaid Qualification purposes, subject to the 5 year inclusion rule.

### **Tax Problems**

If you were to inherit your mom's house upon her death, you would benefit from IRC Section 1014 and receive a 'step-up' in cost basis wiping out the built in capital gains and providing you with a basis equal to the date of death value of the property. In the alternative, when your mom puts your name on her deed, she is effectively giving you her basis. As such, you will have a capital gain to realize after her death when you sell the property.

### **Sibling Issues**

When your mom dies and your name is on the deed, you become the owner of the property. How is this going to play out with your siblings? You can't just give them an ownership interest

in the house, or a portion of the sales proceeds without addressing gift tax consequences. Are they going to be upset and hold it against you that "mom gave you the house?" Will this cause a rift in the family that will fester for years? We have numerous examples of this situation which causes families who were once close, to be torn apart and not speak with each other.

### **Solution**

There are various estate planning solutions available to achieve the goal of transferring mom's house to the appropriate parties upon her death. These options include: Transfer on Death Deeds, Life Estates, transfer by Will, and often the best option, transfer by Trust. As with many things, taking what is perceived at the moment as the 'easy' solution can often cause unintended consequences and a great amount of heartache. Contact your JGB estate planning attorney to discuss how to best protect your mom or dad's home for you and your family through the deliberate process of proper estate planning.



**Johnson, Gasink & Baxter, LLP**

1100 Professional Drive  
Williamsburg, VA 23185  
(757) 220-9800  
(804) 824-9690

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About the Author:

Jeremy Johnson is an experienced problem solver who helps individuals and businesses achieve and protect their goals of prosperity, stability and growth through appropriate planning. Jeremy takes great pride in making sure that his work for clients is always reliable, correct, and on time.