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THE TAX LAWYER

New Clues In Philip Seymour Hoffman's Costly Estate Plan

At the time of Philip Seymour Hoffman's death, there were at least [7 tips from Philip Seymour Hoffman's estate](#). Now, five months later, court documents reveal more yet seem to confirm that Mr. Hoffman may have wanted it this way. No matter how tax inefficiencies may cause bean counters like me to shudder, this was Mr. Hoffman's money and he could do with it what he chose.

Of course, we can't truly know. Did he intend paying an unnecessary \$15 million in taxes out of a \$35 million dollar estate, whittling it down to \$20 million? The IRS might like it, but most taxpayers sure wouldn't.

Unexpected celebrity deaths like Mr. Hoffman's at age 46 spark debate and impart lessons. Ditto from James Gandolfini, Amy Winehouse, Heath Ledger, and others. Inefficient or not, perhaps Mr. Hoffman knew what he was doing.



Philip Seymour Hoffman at the 81st Academy Awards (Photo credit: Wikipedia)

Mr. Hoffman had three children with Marianne O'Donnell: Cooper, ten, Tallulah, seven, and five-year-old Willa. However, Mr. Hoffman and Ms. O'Donnell were unmarried. And that means many more taxes.

The [New York Post](#) says Mr. Hoffman rejected his accountant's advice to put aside money for his three children. New filings say Mr. Hoffman did not want his children to be 'trust fund' kids. Mr. Hoffman wanted his estimated \$35 million fortune to go the children's mother, Ms. O'Donnell.

According to a filing in Manhattan Surrogate Court, the actor's accountant David Friedman said the Oscar-winning actor treated O'Donnell as if she were his spouse, but did not believe in marriage. That decision may be principled, but it is costly.

Mr. Hoffman's plan has at least 4 lessons:

1. Marriage Really Matters. Mr. Hoffman gave his \$35 million estate to Ms. O'Donnell, but they weren't married. Marriage saves estate and gift taxes. You can give an unlimited amount to your spouse tax-free during life or on death.

In contrast, if you are not married, anything beyond your own personal \$5.34 million exemption would be taxed. Because Ms. O'Donnell and Mr. Hoffman were unmarried, taxes will devour about \$15 million. If they had been married, the property could all pass to Ms. O'Donnell tax-free. Any legal marriage saves gift and estate taxes, one of many reasons the legitimacy of gay marriage was an important issue.

2. Keep It Private. Mr. Hoffman's will is in probate, which is public, expensive, time consuming and unnecessary. For very little money, a revocable trust disposes of your assets outside court. You still do a simple pour-over will that gives everything to the revocable trust. It is simple and confidential.

3. Mention Everyone. Update wills and revocable trusts for big events like births. Mr. Hoffman's will mentioned his son Cooper, but not two daughters born later. If you are slow to update your will/trust, you can at least say "or other children I may have" to cover later births.

4. Consider Children's Needs and Ages. Many parents think their children will be ready to receive and manage assets at age 21, 25, or 30. Often, we revise our expectations over time as they mature (or don't). James Gandolfini's estate documents were criticized for letting his baby daughter receive significant assets when she reaches age 21. In any case, needs vary, as do expectations. Mr. Hoffman was clear that he didn't want trust fund kids. But one might classify education differently from creature comforts.

We don't know if Mr. Hoffman would have married Ms. O'Donnell to save \$15 million in taxes. When James Gandolfini died at 51, reports said [his will](#) clumsily sent \$30 million of his \$70 million to the IRS. These stories could make tax advisers go to the mattresses, though not everyone wants to be tax efficient. Sadly, though, we can't ask them whether they understood what would happen.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.