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I SAY A LITTLE PRAYER

Aretha Franklin's Estate Plan

By: Nicholas A. Reister, Attorney

Aretha Franklin died on August 16, 2018, and there is much buzz about the Queen of Soul's lack of an estate plan. Her estate is rumored to be worth roughly $80 million and possibly more depending on the value of her song catalog. Probate court filings and reports from her inner circle indicate that she died without ever having prepared a will or trust, which is rather shocking. The reality is that Ms. Franklin did have a plan; however, because she didn't create her own, by default, her 'plan' is defined by Michigan law.

The first order of business in untangling the estate of someone who died intestate (the legal term for someone without a will or trust) is determining who will have the legal authority to administer the estate. Michigan law provides a hierarchy of parties with priority to be appointed as the personal representative of the estate – AKA 'executor.' In Ms. Franklin's case, since she died unmarried, her children share equal priority. That could mean trouble if more than one of them wants control of her affairs. Initial reports indicate that her niece quickly applied for the appointment as personal representative. No word yet on whether Ms. Franklin's four sons have something to say about that. If one or more of them raise their hands, they will have priority and the Probate Court will have to choose the best candidate. If it's hotly contested, this part could take months, if not years, to resolve.

After a Personal Representative has been appointed, that person will need to resolve all debts, taxes, and other obligations Ms. Franklin may have left behind. These details will be available for public inspection – an alarming result for someone known to have been immensely protective of her personal affairs. It's hard to imagine that she would have approved of this, but that is the result of her failure to plan. Like the appointment of the Personal Representative, this phase could also take years to resolve.

A few years from now, after the Court has appointed a Personal Representative and that person has tightened up Ms. Franklin's affairs, she or he will be tasked with dividing the estate. Michigan law provides for an estate to be divided between a surviving spouse, children, and in some cases, grandchildren or more distant generations, depending on who outlives the deceased person. In Ms. Franklin's case, she leaves behind four sons, each of whom will be entitled to an equal share. This may have been Ms. Franklin's intent, but failure to plan can lead to bad results. For example, if any of Ms. Franklin's children are disabled, struggle with addiction, make poor life decisions, get in trouble with the law, get divorced, or are being pursued by creditors, their shares of her estate may be lost. Michigan law doesn't do much to help in this regard when people don't leave a will or trust, but these are common issues that can be easily addressed with an estate plan.

Finally, failure to plan leaves Ms. Franklin's estate vulnerable to depletion by estate taxes. Using rough math and the $80 million estimated value of her estate, Ms. Franklin's estate will owe the IRS over $27 million in estate taxes, leaving a remaining balance of approximately $52 million. Divided among her four sons, each should receive just over $13 million. If her sons are not wise with their inheritance, they could consume that money quickly. On the other hand, if they maintain healthy spending habits and invest wisely, their inheritance could grow significantly. In that case, their reward may be having to pay the same estate tax as their mother, further reducing the value of Ms. Franklin's talent and hard work. As hard as it is to imagine $80 million dwindling or even disappearing altogether, taxes, spending habits, and life events are very real threats that all too often lead to that result. Had Ms. Franklin followed advice of attorneys, accountants, and financial advisors, she could have established a plan that would have greatly reduced the impact of taxes on the value of her estate and the estates of future generations while also providing structure and support for raising up healthy, productive, and financially stable children, grandchildren and great-grandchildren.

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