

Protecting Your Legacy: Trust and Estate Planning for Musicians

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By Megan A. Moghtaderi



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Embarking on the journey of music copyrights and estate planning is like composing a symphony of legal and financial strategies for musicians and their heirs. Unlike many professions, a music career brings a distinct set of legal and financial challenges, making it crucial for artists to manage their legacies with care. Given the unpredictable nature of the music industry and the substantial value of intellectual property (IP) assets, having a solid plan is not just advisable—it's essential. Understanding how to protect and transfer these invaluable assets can ensure that a musician's creative legacy endures and continues to benefit future generations.

One of the most important things musicians must pay attention to is their IP rights. It's important to recognize that with music copyrights there can be multiple copyrights involved in a single song, including the copyright of the composition and the lyrics if they were composed with a partner and separately from the score. So, there are a lot of moving parts to track with a musical piece.

Understanding the basics of music copyright is essential before delving into estate planning. A copyright is a collection of legal rights initially owned by the author, including the right to perform the work publicly. These rights are treated like other intangible assets and can be owned jointly, held in trust, or transferred by gift or at death. Properly inventorying and valuing your music copyrights is a critical first step in estate planning. A qualified appraiser can help determine the worth of these assets by examining their income history or market value, which aids in evaluating estate planning options and predicting potential gifts or estate taxes.

Ensuring that copyrights for compositions and recordings are registered correctly and that proper powers are provided to trusted successors is key to a portfolio, inheritance, and a comprehensive estate plan. For example, assigning these rights to a trust is an excellent way to provide ongoing income to beneficiaries. Musicians must also account for how royalties should be managed and distributed. This can involve setting up trusts specifically for royalty income.

One idea is for musicians to set up management companies to handle their IP assets that can provide continuity and professional management of the musician's works after death.

Let's take a lesson from Taylor Swift. The key lesson is to protect yourself early. Swift owned the composition of her music; however, she didn't own the master recordings, and they were purchased without her blessing. To remedy that, Swift famously and with fanfare re-recorded her songs to secure rights to master recordings for most of her catalog.

Musicians must also carefully consider who will oversee monetizing their music and brand after they die. Who do they want to decide how their image is used, whether their songs can be used in movies or TV shows, or whether they want to be a hologram?

Musicians often have dependents, such as children or elderly parents, who rely on their income. Like many who pass without advance planning or an estate plan, a musician's assets may go through probate, a time-consuming and public process. Estate planning tools like trusts can help avoid probate, ensuring a smoother transition for heirs and provide for these dependents long-term.

Estate planning for musicians also involves navigating complex tax issues, especially when significant estates that may be subject to federal and state estate taxes are involved. Proper planning, including using trusts and charitable donations, can help mitigate these taxes. Beneficiaries may have to pay taxes on royalties and other income from the musician's IP. Structuring the estate to minimize these taxes is crucial. Musicians making substantial gifts during their lifetime should be aware of potential gift tax implications.

Key Legal Instruments in Estate Planning

Several legal instruments are crucial in the estate planning process for musicians:

1. **Wills:** A will is a foundational document in estate planning that outlines how a musician's assets should be distributed upon death. A will provides for the distribution of property you own at the time of your death. This can include your instruments, gear, and assets related to your music career. You can also designate who will be responsible for managing your music and other intellectual property after your passing. Generally, you may gift your property in any manner you choose. However, wills must go through probate, which can be avoided with other tools.
2. **Trusts:** A trust is a legal arrangement that allows you to transfer ownership of your assets to a trustee, who can manage those assets for the benefit of your beneficiaries. This can be a useful for musicians to ensure that their loved ones are taken care of after their passing. Trusts are flexible tools that can manage and distribute a musician's assets according to specific instructions. They can be beneficial for managing ongoing royalty streams and providing for dependents. Of importance for artists is how the handling of the intangible assets known as digital assets are managed post-mortem. These are issues properly handled in an estate plan. In a comprehensive estate plan, there can be multiple trust structures for planning and gifting.
3. **Revocable Trusts:** A trust created during one's lifetime may be revocable. Like it suggests, this means it may be revoked or changed by the settlor ("Introduction to Wills—American Bar Association"). These trusts allow musicians to retain control over their assets during one's lifetime and provide instructions for distribution after death.
4. **Irrevocable Trusts:** An irrevocable trust means it cannot be revoked or changed by the settlor. This is useful in gifting strategies for artists considering their taxable estate.
5. **Health Care Power of Attorney:** You have the right to decide who can make decisions about your health care. These documents allow musicians to designate someone to make healthcare decisions on their behalf and outline their instruction for medical treatment if they become unable to communicate.

It is not only important to create an estate plan for musicians, but also critical that the estate plan is kept up to date. Things change, managers change, people get divorced, and children get added, as do grandchildren. Perhaps the person who was first designated as the manager of the estate is out of the picture. It is essential to keep the estate plan up to date as circumstances change, and to make sure that family is aware of updates.

In the world of music, where creativity and complexity blend, trust and estate planning strike the right chords for crafting a lasting legacy. By partnering with legal experts who understand the intricacies of intellectual property and the unique needs of entertainers, musicians can craft a plan that not only safeguards their legacy but also ensures their artistic vision endures. This

thoughtful approach transforms a vibrant career into a timeless legacy, preserving the essence of their contributions for future generations.

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