

Common Estate Planning Mistakes

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Estate planning is an important process that concerns the disposition of one's property at death as well as by gift (or sale) to specified individuals and organizations during life. It's an important process to engage in, but it can also be a difficult process to get started and execute properly once it has started. Complicating matters is that estate planning is unique to the individuals involved – there is no such thing as a “one size fits all” estate plan. That means that proper estate planning is tied to the goals and objectives of the parties involved.

So, what are some of the most common mistakes that are made in estate planning? There are many that could be listed, but here are my thoughts of what tops the list (in no particular order).

1. Too much property owned in joint tenancy (large estates) or too little property owned in joint tenancy property (small estates).
2. Making the plan too complex.
3. Failure to review (and update if necessary) the plan.
4. Failure to check titles to property.
5. Failure to balance property ownership (in terms of value) in larger estates.
6. Failure to check the beneficiary designations on non-probate property.
7. Utilization of a simple “I love you” will in larger estates.
8. Not taking into account issues that arise because of order of death of the spouses.
9. Not staying informed as to changes in the law that could impact the plan.
10. Simply doing nothing (procrastination).
11. Failure to use disclaimers post-death to correct errors in the estate plan.
12. Incorrect ownership of life insurance.
13. Not being able to find the will.
14. Failure to fund a trust.
15. Not understanding the difference between “equal” and “fair” (in terms of distribution of estate assets to children).
16. Failure to utilize annual exclusion gifts (larger estates).
17. Failure to plan to have sufficient liquidity at death.
18. Naming only one child as a financial fiduciary when there are multiple children.
19. Making gifts to the children without clarification in the will.
20. Making loans to the children without clarification in the will.
21. Discussing the estate plan with the children (unless a family business and its succession within the family is involved).
22. Gifting a remainder interest, and retaining a life estate and thinking the property will avoid inclusion in the estate.
23. Not maintaining good records.
24. Not having a well drafted buy-sell agreement.
25. Not meeting regularly with advisors.

26. Not keeping beneficiary designations up-to-date.

So, if the mistakes can be avoided, what are the most critical estate planning documents for most people? Here's how we see it (in no particular order)

1. Will
2. Power of Attorney (both financial and health care)
3. Revocable Living Trust

How are you doing?

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