

Ten Common Estate Planning Mistakes

HOW TO AVOID CHAOS FOR YOUR FAMILY

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Estate planning seems so simple. It can be deceptive, though. Here are ten mistakes people commonly make that can cause chaos for your family later. These are not in any particular order of importance.

Mistake #1: Believing Your Estate Is Too Small. Estate planning does not depend on how much you have. It is about how you handle what you do have. Your net worth may influence the type of estate plan that is appropriate for you. But rarely is an estate too small to warrant some type of planning.

Mistake #2: The Illusion That You Are Too Young. A lot of people think they are not old enough to need an estate plan. It is surprising to see how many obituaries there are for people in their 30's, 40's or 50's. Everyone over the age of 18 should seriously consider having an estate plan. This is especially important for families with young children because their estate plan can dramatically impact the kids if the parents pass away prematurely.

Mistake #3: Failing to Plan for Incompetence. Every estate plan should address what happens with your finances if you become mentally incompetent. Unfortunately, the common perception is that estate planning is only death planning. Probate guardianship proceedings for a mentally incompetent adult can be burdensome and expensive. A well-drafted estate plan can avoid that problem.

Mistake #4: Confusing Probate and Estate Taxes. Probate and estate taxes are separate issues. Probate depends upon how your assets are titled. Estate taxes apply to all of your assets no matter how they are titled. Avoiding probate does not avoid estate taxes. Likewise, just because your estate is not big enough to incur estate taxes does not mean you will avoid probate.

Mistake #5: Incorrectly Titling Assets. It is absolutely essential to coordinate the way you title your assets with the type of estate plan you have. This is one of the most overlooked aspects of estate planning. For example, just because you set up a trust does not mean you will automatically avoid probate unless all of your assets are titled correctly to work through your trust. Also, people often misuse "probate shortcuts," such as joint and survivorship, payable on death, beneficiary designations and similar titling methods. Sometimes these are good, but used incorrectly, they can completely ruin an estate plan.

Mistake #6: Planning Around Specific Assets. Many times, people try to dictate exactly what is to happen with each specific asset they own. The problem is they may have



different assets when they pass away. Or the value of the assets today may be far different years from now. The better way is to plan based on the “value” of your estate rather than specific assets.

Mistake #7: Wasting Basic Estate Tax Planning. Estate planning is not all about taxes, but tax planning is often important. The first \$2 million of each person’s estate is exempt from federal estate taxes this year, so many people do not have to worry about that. But did you know that Ohio estate tax applies to anything over \$338,333.00? Good planning can minimize the impact of federal and Ohio estate taxes. But you need more than just a last will and testament to do it.

Mistake #8: Ignoring Income Tax Consequences. Income taxes are often an important consideration in estate planning. Individual retirement accounts, 401k’s and other retirement plans are often subject to both estate and income taxes on your death. The tax bite can be huge without good planning. Likewise, making gifts during your lifetime can be good planning, but first you have to consider potential income tax disadvantages.

Mistake #9: Do it Yourself Planning. Estate planning is more than just creating documents. It involves understanding the whole picture of your finances and personal goals and then determining the best legal structure to accomplish your objectives. You cannot properly plan your estate on your own using software or internet forms any more than you can cure cancer from a medical website.

Mistake #10: No Estate Plan at All. Perhaps the worst mistake you can make is not having any estate plan at all. If you do not have an estate plan, Ohio law has one for you. The problem is that it may not work the way you would have wanted. Still, nearly 70% of adults in our country do not have any estate plan.

There is an abundance of misinformation and misunderstanding about estate planning. The mistakes listed above are just a sampling of poor planning. You owe it to yourself – and more importantly to your family – to avoid mistakes and get a good estate plan in place. You can do this by working with an experienced professional who focuses on estate planning. Otherwise, the legacy you leave may be one of chaos for your family to clean up after you are gone.

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