

Top Ten Estate Planning Mistakes

Estate planning is an intricate, detailed, sensitive, and highly specialized area of the law. Estate planning involves numerous areas of consideration, and your estate plan is crucial to ensure that your wishes are carried out. Therefore, we believe it is important to consider these top ten estate planning mistakes:

1. **Not Having a Disability Plan.** Everyone needs to plan for disability, whether it is for health or financial reasons. Health care directives ensure that someone you trust makes your health care decisions on your behalf, in accordance with your wishes. Financial directives guarantee that financial and personal matters are handled on your behalf, all in the event of a disability.
2. **Not Fully Utilizing Gifts.** In calendar year 2017, gifts of up to \$14,000 may be transferred out of your estate, per spouse. Each year, making gifts to heirs and loved ones can greatly reduce the size of your taxable estate, gift tax-free (and estate tax-free). Gifting prior to death may not only reduce your estate, but can reduce the risk of beneficiaries arguing over who gets what.
3. **Not Retitling Assets and Having Appropriate Beneficiary Designations.** Drafting the right estate plan is only half of the work. In order to ensure that your estate is distributed in accordance with your wishes, assets must be retitled, and retirement accounts, insurance policies, and annuities need to have the appropriate beneficiary designations. Failure to update these documents could result in no estate plan at all.
4. **Joint-Tenancy – yes or no?** While joint tenancy does avoid probate, it is usually the wrong estate planning technique. Negative consequences include: gift tax liability when granted to a non-spouse, exposure to the joint tenant's debts on jointly owned assets, and disinheriting children of a first marriage when given to the spouse of a second marriage. However, there are times when joint tenancy is the correct technique, so it is important to consult with an estate planning professional.

5. **Outright Bequests to Surviving Spouse.** While you trust and love your spouse, he or she may remarry and disinherit children or other beneficiaries. Usually, the best approach is to pass assets in trust for the benefit of your spouse, and then upon his or her death, the trust assets are directed to your intended heirs. There are also important tax and wealth protection opportunities in this type of design.
6. **Specific Bequests.** While there are always scenarios that produce compelling reasons to distribute a specific asset to a specific beneficiary, often with the passage of time, these types of distributions can become obsolete. Since most individuals and families do not review their estate plan as often as they should (at least every 2-3 years), it is usually best to create an estate plan that benefits beneficiaries more generally.
7. **Procrastinating.** Your loved ones will appreciate you taking the time to craft an estate plan, sooner rather than later. Death and disability are never planned. Taking the time to implement a responsible estate plan prevents friends and family from being embroiled in a legal battle over your health and finances if an unfortunate situation arises.
8. **Not Using a Professional.** Laws constantly change and administration of estates vary greatly from state to state. Therefore, using online forms or a “quick and easy” document service can have catastrophic consequences. A qualified professional can ensure that tax-planning and wealth protection strategies are considered and the correct estate planning approaches are used.
9. **Improper Fiduciary Appointments.** An objective and trusted individual or institution should be considered when deciding who handles your estate, whether it be an executor, trustee or guardian. Most individuals choose their spouse or children as their executor. However, often friends, extended family and professionals should also be considered, especially in blended families.
10. **Not Having an Estate Plan.** Having an estate plan for all size estates results in assets passing in accordance with your wishes. It also maximizes the estate that eventually passes to loved ones.

We believe that in avoiding these mistakes and developing your estate plan with the assistance of qualified professionals, you will not only increase the chances that your estate plan is successful, but will ensure that your wishes are carried out, your estate is maximized, and your tax liability is minimal.

As always, please do not hesitate to contact us with any questions or concerns. We appreciate the confidence you have placed in our team at MAI to help you navigate through your unique situation.

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