Top 10 Estate Planning Mistakes (And How to Avoid Them)

Generally speaking, estate planning is one of those things that people know they should do, but often never get around to actually doing. It may not be an especially fun topic to spend time thinking about, but it is a very big deal. It’s your opportunity to secure your legacy - and the future of your children and grandchildren..

In this report, we are going to address ten common mistakes that many people make during the estate planning process. While avoiding these mistakes is a good start, please note that estate planning is a complex and important topic, and one that you should work through with a qualified estate planning attorney. Contact me today if you’d like to learn more!

Mistake #1 – Failing to Address Health Care Decisions

While money might be the first thing you think of when you consider estate planning, you also need to pay attention to the matter of who is going to make health care decisions if you are incapacitated and unable to do so for yourself. Having a specific ‘decision maker’, as well as an outline of your wishes in certain situations, will make a difficult time a little bit easier for everyone. You don’t want to leave your family in a situation where they are unaware of what your wishes are, or who you would like entrusted with the job of making such important decisions.

Mistake #2 – No Plan to Control Financial & Property Matters During Incapacity

In addition to health care decisions, there is also the matter of dealing with financial matters while you are still living, but unable to control your finances. If you have a trust in place, your trustee can manage your financial affairs as long as necessary. Also, giving an agent durable power of attorney is another way to enable them to make financial decisions while you cannot. There are many details that must be considered while making these decisions, so please be sure to consult an estate planning attorney!

Mistake #3 – No Wealth Transfer Strategy

You have worked hard throughout your life, so don’t let the fruits of your labor be lost due to poor planning. A proper weather transfer strategy should be designed to suit the types of assets that you own and to see that they are transferred in a quick and cost effective manner. A living trust is one possible wealth transfer strategy that may be a good choice depending on the specifics of your situation. It is possible to experience significant probate savings by using a living trust - and I would be happy to help you evaluate these options and more.
Mistake #4 – Failure to Understand and Plan for Death Taxes

Understanding the Death Tax – and how it can affect you – is something that far too many people overlook. You might not think the Death Tax will have a significant effect on you because your estate isn’t large enough – until you start to realize how large your estate actually is. When you start to add up the value of your home, life insurance, investment accounts, and more, you might have a much larger estate than you once thought.

Mistake #5 – Thinking Children - Minor and Adult - Don’t Need Inheritance Protection

No matter what age your children may be when they receive an inheritance, the process can be more complicated than you would have expected. If that child is experiencing financial struggles such as creditor problems or at risk for a divorce, they may end up losing a large portion of what they were entitled to. A Heritage Trust or Children’s Trust are two ways to deal with these issues and help to keep all of your assets in the family - but again, speak to an estate planning attorney before making any decisions.

Mistake #6 – Not Preserving Tax Deferral Benefits of Retirement Plans

When your retirement plan is part of your estate that gets passed to your beneficiaries, much of it could be lost to taxes if you don’t carefully plan the transition. There are strategies, such as an IRA Legacy Trust which can keep the funds tax-protected in an IRA for as long as possible. Generally speaking, the longer the money can stay in an IRA, the more-valuable that retirement account will be in the long run.

Mistake #7 – No Guardians Named for Minor Children

If your estate doesn’t establish legal guardians for your children who are under 18 at the time of your passing, the fate of those children could be up in the air and left to the courts. Obviously, that is a situation that no parent would wish to leave their child in. Make sure to plan for this possibility by establishing legal guardians who are ready to step in and care for the children if necessary.

Mistake #8 – Failing to Protect Spouse and Children in Second Marriage

If you have been married more than once, you may be in a situation where you want to provide for your current spouse, but also make sure your estate benefits your children as well (and not a future partner of your spouse, or son/daughter-in-laws). You may wish to set up a specific type of trust which ensures that your spouse is provided with income, and also makes sure your children are given income and/or principal as per your request.

Mistake #9 – DIY Planning – Tripping Over Dollars to Save Pennies
Taking the “Do It Yourself” approach to estate planning might seem like a good way to save money in the short term – but it will almost always cost you more in the long run. Any mistakes you make in establishing your own estate plan will likely far outweigh the costs of working with an attorney to get the job done correctly the first time. When you consider the impact that your estate plan will have on your children and your legacy, it’s simply not smart to save a few bucks by creating it yourself.

Mistake #10 – Believing Estate Planning is a “One-Time Event”

This might be the most common mistake of all. You have done the right things by making key estate planning decisions, but don’t trick yourself into believing that your job is finished. As the years go by, your life will change, and that means that you will need to update your estate planning. Divorce, remarriage, purchase of a new home, adoption, launching a business - all of these (and more!) are life changes which must be reflected in your estate plan. Don’t let your estate plan sit on the shelf gathering dust.

In Conclusion

Estate planning is about more than your money. It’s about the future of your family. And it’s about leaving a legacy on the world around you.

It’s important to create an estate plan that protects your wealth. But it’s just as important to ensure that the fruits of your labor are smoothly passed down for your children and grandchildren to enjoy, and that you have the opportunity to support causes that you believe in.

At the Law Offices of John Mangan, P.A., we will work with you to create an estate plan that enables you to relax knowing that your loved ones will be taken care of if something were to happen to you. We’ll help you think through important concerns such as tax liability, asset protection, trust formation, and more.

Please contact us today to learn more!