

Top Estate Planning Mistakes - A CPA's Perspective

By Ronald Nagle

The primary goal of estate planning is to develop an effective and efficient process for the administration and distribution of an individual's assets after death according to his or her wishes. The following estate planning mistakes can be avoided, with some effort and with the assistance of your Certified Public Accountant and attorney.

I can do it myself

Those who replace professional advice with do-it-yourself planning should understand the effects of their actions. Frequently, the family of the do-it-yourself planner will pay significantly more administrative fees, court costs, and taxes than if they'd engaged professionals early on. The emotional strain and family conflict that can be created by poor estate planning can last for generations.

Not reviewing or updating your will and other estate planning documents regularly

Read the provisions of your will - where you've provided instructions for the distribution of your estate after you've passed away. Does it reflect your current wishes? I recommend reviewing your will and related documents every five years, or sooner if any of the following occur:

1. The birth or adoption of a child
2. A meaningful change in your health or wealth or of one of your beneficiaries
3. You move to another state
4. You marry, separate or divorce
5. The marriage, divorce or death of anyone named in the will
6. A major tax or state law change
7. Any major change in your needs, circumstances or objectives or, of your beneficiaries

Thinking that equal distribution of the estate is the same as equitable distribution

Most parents want their children to share equally in the estate assets. A frequent problem occurs when a person owns a business in which only some of the children participate. Giving both participating and non-participating children equal shares of the business is a near guarantee for disaster. Consider also two children, the older is a financially successful business owner and the younger has severe learning disabilities. Their needs and circumstances are not the same. Should each child receive the same amount?

Not understanding JTWRROS and beneficiary designations

Most people believe their will controls the disposition of all their assets when they pass away. Bank accounts and brokerage accounts are frequently owned as "Joint Tenants with Rights of Survivorship" (JTWROS). The surviving joint tenant will become the sole owner after the death of the first tenant. Retirement accounts, life insurance benefits, and annuities will be paid out to their named beneficiaries, which is not necessarily the same as what is written in the will.

Naming the wrong administrator

Selecting an incorrect administrator (personal representative, executor or trustee) can be a disaster. The primary duties include:

1. Collecting the assets
2. Paying debts and expenses
3. Distributing assets to the named beneficiaries

Although these duties seem simple enough, executing them can be very complex, time consuming and stressful. Choosing one of the beneficiaries as the administrator may result in a conflict of interest. Selecting an administrator who does not get along well with all family members can create more havoc. Sometimes the best solution is to use an independent third-party administrator. "Trust companies" provide this service alone or as co-administrators with a family member. This is a crucial decision and to be taken seriously. Alternates should also be named.

Procrastination

If you die without a will, the state has written one for you. Your assets will be distributed to the people (spouse, children, etc.) in the percentages specified by law. If you have minor children, these same laws govern who will be chosen as their guardian. Regardless of net worth or age, everyone needs estate planning to some degree.

It's never too late to start or update your estate plan. If you passed away suddenly tomorrow, would your current estate plans give you the result that you want at an acceptable cost? If not, call your CPA or attorney for help moving your plan forward.

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