

Have You (or a Loved One) Made One or More of ... The Ten Worst Estate Planning Mistakes? Learn What They Are & How To Solve & Avoid Them.

Contrary to popular belief, estate plans are not just for the rich and famous.

And any one, married or widowed, with children or grandchildren should consider doing estate planning since avoiding even the most basic mistakes can mean major benefits for your heirs and can result in your wishes actually being carried out.

The reality is that even if you did planning as recently as 2012, the laws have changed so much that you could massively benefit from having an updated estate plan in place. And, if you have no real plan or you have a much older plan (such as a plan without the right trusts) then the harm to heirs can be substantial.

Not only can updated and customized planning help maximize the actual value of the estate you'll pass on to your heirs and beneficiaries, you'll also have the opportunity to make informed decisions concerning how your assets should be handled while you are still alive.

So read on to discover the most common and devastating estate planning mistakes, how to avoid them, and how to reap the benefits for both you and your family.

See these additional and useful articles from our archives and from Find Law on [Estate Planning: Keep Track of Passwords, Access Keys, and PINs](#), [Download our Estate Planning Checklist \[PDF\]](#), and a Forbes Magazine article for more information on gifting ([click here](#)).

Below are ten common estate planning mistakes to avoid:

Estate Planning Mistake 1:

Not having an estate plan at all.

The most common estate planning mistake (but one that has devastating effects) is not having an estate plan at all. Most of us, whether we do estate planning or not, have thought about what we want.

We have a sense of what's important to us and fair and good for our heirs. And while no one wants to face their own mortality, no one can escape death. But, if death is inevitable, and we can never know when it might happen, and if we (even secretly) have

thought about our desires, then it's actually painful to avoid planning. And, planning makes it more likely that our wishes will be known and followed.

It minimizes taxes and expenses, and it makes us feel like we have done our duty to our family and/or other heirs – such as charities or charitable causes.

Solving the problem: Find an experienced legal and estate planning professional, preferably someone located near you (as adding travel to the list of barriers doesn't really help), who works with other families like yours, and/or individuals like you. Get that law firm's estate planning questionnaire ([click here for our EPQ](#)) and work through it (it will get you going in the right direction and thinking about the right questions). Find one that offers a free or reasonable initial meeting (good planners tend to be a bit more expensive than a general practice attorney and might have a little wait for the appointment...remember they're good so people seek them out).

Finally, make an appointment. That way, your brain knows you're serious and you get momentum. Before you know it you'll have an estate plan including wills, trusts, powers of attorney and the other essentials. And when you do you'll actually feel better.

Estate Planning Mistake 2:

Not updating your will trust or estate plan.

There are many changes that can take place within a family or business structure, such as births, deaths, divorces, new business structures or ventures, changes in estate, tax, and inheritance tax laws and new property acquisitions. Therefore, to ensure the assets you leave behind are given to those you intend, it is wise to perform a periodic update of your will, trust, beneficiary designations, and overall estate plan when these changes take place.

In fact, there have been so many changes in recent years, that even an estate plan completed in 2012 or before might be out of date, obsolete, or even disadvantageous.

Solving the problem:

When you update your plan and/or documents, also make sure that you review whether you should use a will, a revocable trust, and irrevocable trust or some combination of those techniques.

What once worked, at an earlier stage in life, a different level of wealth, or under old laws, may no longer be optimal – or even desirable.

Most trust and estate and wealth preservation lawyers and law firms will provide updates to existing clients at a reduced cost rather than charging you the full price of the first plan. However, if you were less than satisfied with the work of your lawyer or if they have retired then finding a new firm may offer real benefits.

Again, make sure that the firm works with other clients that have your goals, level of wealth, or similar issues. Get their [questionnaire](#) and complete it BEFORE you go to the initial appointment.

Being disorganized can make the process more expensive. And knowing, in advance, some people who could serve as executors or trustees and trust protectors as well as having a general sense of percentages of your estates to each heir will probably help to reduce your overall costs.

Make that appointment.

It will stop the procrastination and almost everyone notes how much better they feel when they do, or update their planning. To get on our schedule call 610-933-8069.

Estate Planning Mistake 3:

Not planning for, and protecting yourself from your own disability (otherwise known as “You want your assets to be there if you wake up from a coma.”).

Dying is not the only reason to have an estate plan in place. An unexpected or long term disability can often have important consequences to your personal and financial affairs.

Decisions about issues such as: who will handle your finances, raise your children, or make healthcare decisions on your behalf are all extremely important. Therefore it may be necessary to appoint a power of attorney and/or create a living trust to work on your behalf in the event you're unable to do for yourself.

Most spouses think, incorrectly, that they can sell or refinance a home owned jointly, and/or deal with a spouses IRA or 401(k).

But that's incorrect.

Advanced planning can mean the difference between an expensive court monitored guardianship (or a dispute over who gets to make decisions) and a simple, clear and inexpensive solution.

You get to choose.

Your customized solution:

Not all powers of attorney and living wills are the same. But you should address disability planning with an experienced trust and estates or wealth preservation attorney.

In fact, many experienced lawyers in this field include these customized documents in their flat estate planning fees.

Again, better attorneys are often more expensive and harder to get to see on short notice so plan ahead and make an appointment.

And, while cost and a full schedule do not prove legal and estate planning ability, they are factors to consider and to weigh along with ratings from services such as [AVVO](#) and the recommendations of trusted friends and family advisers.

If you need to know more you can also get our report: Enhanced Estate Planning. Either [click here](#) or call 610-933-8069 for a hard copy.

Estate Planning Mistake 4:

Not doing nursing home planning and considering lifetime gifts to reduce your estate and to protect assets for your heirs.

A common estate planning mistake is failing to do long term care planning, or to consider making lifetime gifts under your estate plan to reduce your estate taxes and ultimately to protect a spouse or heirs from having to spend down all of your assets for nursing home or long term in home care.

Multiple Solutions:

According to the Internal Revenue Code, annual gifts up to \$14,000 a year per spouse may be excluded from estate and gift tax.

So, gifts made to individuals, or to family business entities, are currently subject to a \$28,000 exemption from estate tax and in some cases, inheritance taxes at the state level.

As a result, if you can afford to make such gifts without harming your economic security, not only will this result in larger distributions to your heirs but you can positively impact a specific person of your choosing.

Next, you can also help a child or family member to buy a home or to start a business by using part or all of your lifetime exemption (currently \$5,430,000 dollars) to make larger and tax free gifts.

In addition, certain specific and irrevocable trusts can be created to protect your assets from being spent down for your own long term care. However, the common revocable family trust cannot do this and the issues are numerous.

But, a knowledgeable wealth preservation or elder law attorney with experience in Medicaid trusts can guide you through the landmines safely and can protect assets for a non incapacitated spouse and in the long term for children and other heirs.

BUT BE SURE TO READ MISTAKE 5 BELOW!!!

Estate Planning Mistake 5:

Putting your child's name on the deed.

Speaking of gifts, when you put your child's name on the deed to your home, you are essentially giving your child a hefty sized taxable gift (see Mistake #4 above).

While gifts up to \$14,000 are excluded from estate tax, gifts more than \$14,000 per spouse are taxable for gift tax purposes or at the very least eat into your lifetime exemption from federal estate taxes.

Worse yet, they get your basis in the property, so they may end up paying much higher capital gains taxes.

And, if they get sued or divorced, you might end up losing your own home.

In addition, if you're not careful, you might end up disqualifying yourself from Medicaid and long term care.

So, no matter how good your intentions may be to gift the family home to your child, you may very well end up giving him or her (or yourself) a lifetime of financial headaches.

Solutions and Options: Instead, create an estate plan that evaluates the benefits of gifts and that considers transfers of your home or other assets via an inheritance or through a revocable or irrevocable trust depending on your specific goals and objectives.

To find out more about wills and trusts [click here for our report on Enhanced Estate Planning](#).

To get our monthly Elder Law newsletter, [click here](#) or visit www.PaElderLawSolutions.com.

Estate Planning Mistake 6:

Choosing the wrong person to handle your estate, trust, or power of attorney. Sometimes the person you think is the best choice for executor of your estate is not always the case.

For example, while you may think your spouse or child may be best suited to handle the affairs of the estate when you are gone, there may be someone else who is not as personally invested to objectively handle the extensive duties and demands required of an executor, trustee, or guardian.

Surprisingly, this may not always be your spouse or children.

And, having multiple children acting at the same time OR, creating a disputed because one is acting before another can both be problematic in some families.

Another thing to consider is age. An older relative may not be well suited to be the trustee of a long term trust for children or grandchildren.

Solutions and Options: Before making these decisions, it's important to really understand the role of the executor, trustees, agents under a power of attorney, and of the trust protector.

Once you understand these various jobs, it's easier to talk with an experienced attorney about the best options given your specific family situation.

To instantly download our PDF: Enhanced Estate Planning – which explains these and many other issues, [click here](#).

To update your will to a trust or to get a trust protector call 610-33-8069 for an appointment.

Estate Planning Mistake 7:

Not transferring your life insurance policies to a life insurance trust or leaving them directly to heirs.

Many people don't realize that proceeds from a life insurance policy may be subject to a hefty estate tax when you die, resulting in most of the proceeds going to the IRS instead of your intended beneficiaries.

Furthermore, life insurance proceeds passing through an estate MAY also be available for claims by estate creditors in lawsuits.

Solutions and Options: One way to avoid this easily-overlooked estate planning mistake is to set up a life insurance trust to act as the owner of your life insurance policies. That trust can be either revocable (which will avoid probate fees and some legal claims) or irrevocable (which can also avoid federal estate taxes).

This way you avoid hefty estate taxes being placed on the insurance proceeds, avoid liability to someone suing your estate (from a car accident or other claim) and spare your spouse or beneficiary any undue hardship in waiting up to several months for a pay-out of the insurance proceeds.

You can also protect sizable life insurance proceeds from loss to a divorce or lawsuit against an heir by creating trusts for your spouse, child and/or grandchildren.

To discuss your insurance as part of your estate plan, call 610-933-8069 for a consultation.

Estate Planning Mistake 8:

Not taking advantage of the federal exemption (\$5,430,000.00 per spouse).

For married couples, one of the easiest ways to save on estate taxes is to use the federal estate tax exemption for each spouse.

That way, when a spouse dies, instead of losing the deceased spouses individual exemption amount, a portion of the estate will be protected under an exemption trusts and/or disclaimer trusts (also often called credit shelter trusts), or through the new laws of portability.

However, due to changes in the federal estate tax law at the end of 2012, the best practices in this regard have changed radically. In fact, old A/B trusts and other techniques used prior to 2013 may now be harmful to your surviving spouse and/or heirs.

Solutions: Be sure to get a review of any plan done prior to 2013.

And, be sure to ask the lawyer to explain the new rules of "portability" and how trusts can be used to protect assets without imposing higher capital gains taxes. It's a whole

new ball game. Make sure that you're playing by the new rules...and believe me, they are finally stable and better than ever before.

Estate Planning Mistake 9:

Incorrect or conflicting IRA, 401(k), life insurance and annuity beneficiaries which are NOT COORDINATED WITH YOUR OVERALL ESTATE PLAN.

Most clients that come to see us have incorrect beneficiary designations that actively conflict with their estate planning goals and/or that create tax nightmares or confusion for heirs.

Many have a spouse named as the primary beneficiary of IRA or life insurance policies but have no contingent beneficiaries - which can trigger massive tax and asset protection disadvantages at the death of the second spouse or in a common disaster.

To make matters worse, the United States Supreme Court just recently eliminated creditor protection of heirs inheriting IRAs and other tax deferred assets.

So now clients have to decide if they should leave IRA and 401(k) type assets outright or in trust. And, most existing trusts lack the special IRA provisions needed to get the beneficial tax and creditor protections.

Solution: Get our great report on how to deal with beneficiary designations. To download this very important PDF just [click here](#) or visit <http://bit.ly/BDReport> .

Note, however, that getting this right can be complicated and getting to know and to really understand all of your options (and which are best for your personal situation) may require a consultation with a knowledgeable estate planning attorney.

To get a complimentary estate planning review and consultations in the areas of Chester, Montgomery, or Delaware counties in Pennsylvania call 610.933.8069.

Understand that estate planning is what we do.

We limit our practice to helping individuals with estate planning, and to assisting executors and trustees.

And, we have more requests for these consultations each month than we can fulfill.

So we will ask you a few questions before the appointment to make sure that we're the right match for you.

And, forgive us if your appointment is out a few weeks.

Again, (except for our concierge clients who get priority appointment times) we do these on a first come first served basis. So, call 610-933-8069.

Estate Planning Mistake 10:

Procrastinating. Even for those families and individuals who realize an estate plan can benefit them, the realization sometimes comes too late.

In many cases, an unexpected death or disability occurs and there is simply no time left to plan and even if there is, the situation no longer is optimal.

But you may have been thinking about this for years...perhaps since your children were born, you first faced a health problem, you realized that your wealth was really growing or from other triggers.

So how can you get yourself to act now to stop procrastinating?

Solving procrastination: It's actually quite simple. A single and simple act that moves you on the path to getting it done is to make an appointment with experienced legal counsel.

A good firm will then send you (or have you download) two things: 1) [an estate planning form](#) that will ask you the right questions and get you thinking about your planning, and 2) [a set of materials](#) that will remind you of various jobs to be filled (such as the executor, trustee, and trust protector, and various techniques to think about.

Typically, there will be two appointments – the first to go through your goals and planning ideas, and the second to sign the documents that will make up and carry out your plans.

But, the simple act of calling for an appointment to do or to update your planning will end the worries of procrastination.

Before you know it, you'll have a plan built and customized specifically for you to carry out your specific goals and wishes and to benefit you and your heirs all the while reducing or eliminating many costs, probate fees, taxes and other delays and expenses.

In Closing:

Thanks for taking the time to review the most common estate planning mistakes and how to avoid or to solve them.

Obviously, in the limited space we have in this article we cannot comprehensive review all of these issues, strategies, and techniques. There are literally hundreds of different types of trusts created under both wills and under living trusts and it's part of our job to narrow it down to the ones that make the most sense for you.

And, estate planning is very sensitive to your personal facts, circumstances and your specific goals and objectives.

But to help you to learn more and to be a savvy consumer of estate planning services here are a few resources that we have prepared for you;

Want to know more about how beneficiary designations are related to your will, trust, and estate planning and how to make sure that they match?

Get our great report on how to deal with beneficiary designations. To download this very important PDF just [click here](#).

Note, however, that getting beneficiary designations right can be complicated and getting to know and to really understand all of your options (and which are best for your personal situation) may require a consultation.

To get a complimentary estate planning review and consultations call 610.933.8069.

Want to know more about the role of the executor, trustee and trust protector?

Or

More about the different types of trusts and more advanced estate planning techniques?

[Click here](#) to download a powerful report Enhanced Estate Planning 2015 edition [PDF] and to watch an informative video, [click here](#)

Want to quickly get an idea of the benefits of long term care planning? Here's a video on protecting your spouse and heirs from nursing home spend down, [click here to watch now](#).

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David M. Frees, III, JD

Douglas L. Kaune, JD

Whitney P. O'Reilly, JD

