

“The 6 Deadly Mistakes Made In Setting Up A Trust Or A Will And Easy Ways To Avoid Them”

I recently read that 75% of all those who pass away each year leave no written instructions on how they wanted their estate distributed.

As a result, an estate goes to Probate Court and excessive attorney fees are paid that you should avoid if you plan.

And, of the 25% that die with an estate planning document in place, many of them make mistakes that end up costing their heirs dearly as well.

Why don't people take a few minutes and plan as they should?

Only two possible reasons:

-they don't know the risks

or

-there's no sense of urgency and they wait until it's too late.

How many of these mistakes are you making?

Mistake Number One - Not having something in writing.

Having nothing in writing describing how you'd like your estate settled is called dying in testate.

If you die intestate, you're simply **giving the probate court permission to settle and distribute your estate as they see fit**. Of course each state has established rules that the probate judge for the most part must use as a guideline, but ultimately, if you do nothing, you have made the decision, consciously or not, to settle your estate in the most unpredictable and expensive manner possible.

Mistake Number Two - Not understanding the implications of how you own your property.

Many folks hold all their property jointly, or as “**joint tenants**”. In some cases this can offer convenience, but in many cases it can be the cause of an expensive mistake.

- Avoids Probate on the first death but not the second and statistics show couples die together in accidents more often than not.
- Survivor if spouse loses the lifetime estate tax exclusion.
- May expose the property to capital gains depending on the relationship of the tenants.
- Gift taxes may be due where the tenants are not husband and wife.

- Exposes the assets to the liabilities, lawsuits and debts of the other tenant so there is no asset protection AT ALL.

Mistake Number Three - Not knowing which estate-planning document to use so you'll avoid probate

Should you use a will or a trust?

A lot of folks don't know that a **will always causes an estate to be probated. Period. A will is simply a written list of instructions to the probate court.**

If you want to **AVOID PROBATE**, you need to use a **living trust** and the other estate planning tools that cover all situations including incapacity.

Mistake Number Four - Not using specific trust strategies to reduce or eliminate estate taxes

Planning for estate taxes today is a bit like trying to hit a moving target. With the estate tax law slated to change in 2011, planning to avoid estate taxes is more difficult now than ever.

However, with proper planning and the right strategy, it's still possible to completely avoid federal estate taxes in every instance.

However the key is planning. If you don't take time to analyze your situation, explore your options, and design a game plan, Washington DC will do it for you when you die. And believe me, their way is probably not the best way!

Mistake Number Five – Not funding your trust

It's amazing to me that **many people go to the trouble and the effort to set up a trust, and then don't take the time to fund it.**

What I mean is, make sure everything is in the trust.

If you don't take this necessary step, all the time and money you spent to set up a trust will be completely wasted.

Mistake Number Six- Procrastinating

This is **likely the biggest and most frequent mistake** people make.

If you want to avoid these outcomes, you need to take a little bit of time out of your schedule and plan.

The truth is with proper planning almost anyone can dramatically improve their estate plan.

Due to the complexities of estate planning and the many changes slated to occur, it's extremely difficult to explain each application of these strategies here in print.

While one client may be able to benefit from a strategy by using it one way, another client may be able to benefit from a different application of the same strategy.

All estate strategies and their applications will be discussed in detail at my upcoming seminar. Details of this strategy and others, as well as seminar information is attached.

Bonus

Delicious way to think about Estate Planning:

Think of a three layer cake with the top being the frosting and that is where we have the departure documents like the Living Trust, Pour Over Will and General Assignment.

The next layer of the cake would deal with incapacity and are your Durable Power of Attorney and Health Care Power of Attorney (sometimes referred to as Living Will) and prevents lingering in a vegetative state.

The final bottom layer of your cake deals with asset protection and preservation of your retirement funds since the government is set to get up to **70%** of the plan through estate tax and IRD or Income Respective of Decedent which is an obscure aspect of tax that is lying in wait to devour your retirement plan and leave your heirs next to nothing so don't take the governments plan and **start your own plan.**

Finally, you'll want to strategize who is the beneficiary of your IRA or retirement plan but eventually just about everyone transfers their employer plan to an IRA and there are HUGE booby traps in there if you're not planning.

HAVE YOUR CAKE AND EAT IT TOO!