Your Firm LLC

Estate Planning Mistakes to Avoid

Whether you already have an Estate Plan or you're just making one now, here are some common mistakes to avoid.

#1 Failing to have a Will

Believe it or not, only 40 percent of people have a will, despite the fact that almost everyone agrees it's important.

A Will is a legal document that provides instructions on how your assets are to be distributed and who should become the guardian for any children who are minors. A Will helps ensure that your assets are distributed as you wish and can minimize the cost of probate. If you die without a Will, then some or all your assets may be distributed by the courts according to the laws of your state. Unfortunately, the courts may not distribute assets as you would have desired. And, having the courts decide on asset distribution can increase the cost of the probate process, which ultimately decreases the value of your estate.

The solution, of course, is to get a Will.

#2 Lacking the core components of an estate plan

A will is really just the most basic aspect of a solid estate plan. The four most important components are:

Revocable or Irrevocable Trust

A will determines what becomes of your children and assets after your death. It must go through probate to ensure it's valid, and it applies to everything you leave behind. Assets held in a trust can have designated beneficiaries and are generally not subject to probate after you die. Infact, you can use a trust to distribute your assets while you're still alive.

Healthcare Directive

Healthcare directives are sometimes called "living wills." They are used if you become unable to speak for yourself due to serious illness or injury. Healthcare directives typically include several different sections outlining the steps you wish healthcare providers to take if the need arises.

Medical Power of Attorney

You may be wondering how a living will could cover every possible emergency event in regards to your health. The answer, of course, is that it can't. But you can give someone else the legal power to make medical decisions on your behalf with a medical power of attorney.

Financial Power of Attorney

Like a medical power of attorney, a financial power of attorney gives someone else the power to make financial decisions on your behalf.

#3 Not updating your plans when needed

Unfortunately, estate planning isn't a "set it and forget it" exercise. You'll need to regularly review your estate plans and make changes when necessary. Here are some common situations that warrant updates:

- Birth of a child
- Death of a loved one
- Divorce
- Marriage
- Increase or decrease in net worth
- Relocation to a new state
- New tax laws

Check Your Beneficiaries

You should also review your estate plans on occasion to make sure they match the beneficiaries listed on your retirement accounts, annuities, and life insurance policies. Otherwise, the designated beneficiaries, in most cases, will override any bequests you've made within your will.

Update Asset Ownership

While you're reviewing, check the ownership of assets within your estate plans. You may sell or acquire new assets, but you should also make updates if a title changes names within your family, is added to a trust, etc.

Check Current Tax Laws

Finally, tax laws can greatly affect your estate plans. When new laws are enacted, you should review your current plans to make sure they're not affected by the changes. If they are, make updates as necessary. For example, if you haven't updated your estate plans since the recent Tax Cuts and Jobs Act came into effect, you should review those documents now.

#4 Not funding your revocable trust

The final act of setting up a trust is funding the trust. Many people forget this crucial step, though it's not particularly difficult or expensive.

To fund a trust with household or personal effects, simply include a schedule of assets with the trust agreement. But you will need to go a step further with larger assets, such as real estate, financial accounts, or vehicles. With these items, you will need to change the name listed on the deed, record, or title. The trust is now considered the owner and should be listed as such. Otherwise, your assets will likely go through probate, which negates one of the primary benefits of creating a trust.

#5 Not using gifts strategically

If you have a sizable estate, you can use Gifting to help reduce estate taxes. Individuals can gift up to $15,000 per year per recipient tax-free and if you're married, you can make joint gifts up to $30,000 per recipient.

These annual gifts do not count toward your lifetime exclusion amount of $11.58 million, so if you have an estate near or exceeding this amount, you should consider annual gifting.

If you exceed the per-person annual exclusion amount, however, your lifetime exclusion amount will kick in.

#6 Not understanding the tax implications of an inherited retirement Plan

When an heir inherits a retirement plan, they must take required minimum distributions (RMDs), which could greatly affect their tax liability. With most traditional retirement accounts, these RMDs are taxable, just like regular income.

However, you may have the option of converting a traditional IRA or 401(k) into a Roth account instead. You will need to consider your own financial situation as well as your heir's financial situation to determine whether a conversion is a good idea or not.

#7 Not considering liquidity

Your estate probably has a mixture of assets, some highly liquid and other not so much. If your estate will need to be split among beneficiaries, then it needs to have the proper amount of liquidity. One option is to purchase life insurance to help pay off debts and provide liquidity, especially if you don't anticipate selling illiquid assets.

If you own a business, you should consider cash requirements to continue the business. If you have a partner in the business, you might want to consider the combination of a buy-sell agreement and key man insurance to help create liquidity for your heirs.

Final Thoughts

If you would like more information about estate planning or have questions about how estate tax laws may affect you, please contact our experts for additional assistance.

About Your Firm LLC

We have hand-picked a team with tax, auditing, accounting, business and management advisory expertise in a multitude of fields, including healthcare, professional-services firms, commercial contractors, home builders, real estate companies, manufacturing and distribution companies, dealerships, non-profit organizations and pension funds.

We have the expertise and the resources to provide not only the critical services you need during these evolving economic times, but also, importantly, to build for the future. Our strategic alliances with professional organizations across the country allow us to bring our clients the talent and expertise of national firms with the high-touch service of a local firm. While we remain focused on the core services of tax, accounting and audit, we expand and offer you the business consulting needed to remain competitive. We believe the success of our clients is the greatest measure of our own.

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