10 common mistakes people make with their estates and how you can avoid them

Estate planning is more than just writing a will.

Many people think that "estate planning" is something meant for just the "rich." This is a misconception that all too often leads to miscommunication, hurt feelings and unhappy surprises. Here are the 10 mistakes people often make and how you can avoid them.

1. Make a plan

Estate planning is about making sure your wishes are carried out. It's making sure that the people and/or organizations you wish to receive your assets do so. Working with a team that includes a financial advisor, tax professional and estate planning attorney can help put you on course.

2. Document your wishes

It's important to have the following documents:

- Will – one that clearly spells out what you want to have happen to your probate assets and possessions at your death. Without a will, the state may decide where your things are going to go.
- Healthcare power of attorney or proxy – to assign the person that you want to make health decisions for you if you are unable.
- Durable financial power of attorney – to assign the person who will make financial decisions if you are unable.
- Living will – to provide clear instructions as to what treatment you do and do not want if you are unable to speak for yourself.
- Health Insurance Portability and Accountability Act (HIPAA) Release form – allows named individuals to have access to healthcare information.

3. Set up guardianship for dependents

If you do not name a guardian to care for dependents, such as a minor or a dependent with special needs, a judge will appoint one and it may not be someone you would have chosen. Talk to the person ahead of time about what you are asking. And remember that the person you are naming as guardian doesn't necessarily have to be the person that manages the money that is left for your child's benefit.

You can name a couple as co-guardians, but that may not be advisable because, should the couple divorce, custody will come into question and your dependents may not end up with the person you originally chose.

4. Consider Trusts

One reason to set up a trust is to give you additional control. Think of a trust as a container designed to hold money for your heirs. You decide what you're going to put into the trust, who gets what in the trust and how it is distributed. So, a properly structured trust can help ensure that your plan is executed exactly the way you intended it to be. A trust should be drafted by an attorney with experience dealing with estate planning and trusts.

5. Plan for federal and/or state estate taxes

If your estate is subject to federal estate taxes, keep in mind that they are generally due within nine months of death — in cash. This may be a concern if much of your estate is not actually in cash. That could potentially mean selling assets, such as a house, for instance, that you may have meant to leave to an heir. Engage a tax advisor that can work with your attorney and financial professional; together they can help you to determine which strategies may be appropriate for your circumstances.

6. Avoid probate

Simply put, probate is the legal process of verifying your will through the courts. It can be slow and costly and isn't private — it's all a matter of public record. So, if you don't want Cousin Sally to know that Cousin Jimmy is getting your baseball card collection, you're out of luck. You still should have a will, but there are actions you can take so that a portion of your assets do not need to go through the probate process. Your attorney can help you with this.

7. Prepare for long term care

Suppose you or your partner is in need of long term care. Such care can be quite costly and can eat away at assets; assets that you may have originally had earmarked for your heirs. The good news is that you can properly prepare for the possible need of long term care while preserving your hard-earned assets for your heirs. A financial professional can discuss potential options with you.

8. Know about Income in Respect of a Decedent (IRD)

The Federal Estate Tax is not the only tax that you need to be aware of. A little-known tax that hits people who inherit certain types of money is referred to in the tax code as Income in Respect of a Decedent, or IRD.

If you die and you have income that hasn't been income taxed, your estate or your beneficiaries are going to have to pay income taxes on that money.

Examples include savings bond income, individual retirement account payouts and sales commissions; income you would have received had you lived.

9. Keep your beneficiaries up to date

A will does not always have the final word. If you have a 401(k), an IRA, insurance policies, and other assets with named beneficiaries, as well as payable-on-death and transfer-on-death accounts, that money will be distributed directly to the people named as beneficiaries even if your will states otherwise.

10. Don't forget about digital assets

Digital is a relatively new and often overlooked category of assets that you should consider when creating an estate plan. Most of us have many digital accounts, and those accounts may be inaccessible when a person becomes incapacitated or dies. Conceptually, the same principles should apply to planning for our digital assets as they do for our other assets.

Most of us keep important papers, necessary information and valuable assets in safe places. Hopefully, a few trusted people who will survive us have that information. But in comparison, the truth is that making arrangements for digital assets can quickly become quite complicated and much more difficult than making arrangements in the physical world.

Treasured family photos might be kept only in digital format. A service provider often will not disclose a deceased person's passwords to his or her Personal Representative; and there are very few laws to help in this situation.

So what should you do? An estate plan can designate a "digital fiduciary" who would be given the right to access digital information, such as login user names and passwords.

You should work with an attorney and make sure, to the best of your ability, that you have a plan to shut down your online presence.

These are 10 common mistakes people make when planning their estates. Of course, there are several other issues to take into consideration. Your estate planning attorney can help you identify the issues that pertain to your personal circumstances. He or she can also draft legal documents, such as wills and trusts. Also, meet with an experienced financial professional who can work in tandem with your legal and tax advisors. Doing so will help ensure that the people you intend to receive your assets actually will.