ESTATE PLANNING & ELDER LAW CENTER
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Plan for Tomorrow, Today

The 10 Most Common Estate Planning Mistakes

1. Not having a Will: Personal wishes, whether written or oral, will most likely not be followed in the absence of a will. Without a written plan that is set forth in a Will that YOU create, your assets will pass to your heirs according to your state's laws of intestacy, not the way YOU would want.

2. **Doing it yourself**: Even if a self-prepared will or trust is legally enforceable, estate planning is a complex legal process requiring knowledge in several areas of the law, including estate law, tax law and property law as starters.

3. **Not funding your revocable living trust**: A property drafted trust will prevent putting your loved ones through the expensive, lengthy and emotionally draining court probate process. Creating a trust is one thing- funding it is another. An unfunded Revocable Trust is useless. Make sure your attorney guides you on funding the trust once created.

4. **Failing to understand the impact of life insurance proceeds**: Many people do not realize that life insurance proceeds are normally included in the taxable estate of the deceased, which can result in approximately 50% of the proceeds going to the IRS instead of your intended beneficiaries.

5. Failing to adequately plan for children with special needs: A child with special needs risks being disqualified from receiving SSI benefits and may have to use their inheritance to pay for their care. Depending upon the situation, a Special Needs Trust may be appropriate.

6. Not properly planning for incapacity: People are living longer, and therefore the risk of lacking capacity during your lifetime is increasing. Only with proper estate planning can you be sure that your health and financial affairs will be taken care of in the event of your inability to take care of them yourself.

The 10 Most Common Estate Planning Mistakes (cont'd)

7. Business planning: Who will own and control your business upon your death? Proper estate planning increases the likelihood of your business continuing as a viable operation.

8. Not preparing for minor children: If you have minor children, you should have a will nominating personal guardians for the children, in the event that both you and your spouse should die prior the children reaching the age of 18. Without a plan, the court will decide without your input where the kids will live and who will make important decisions about their money, education and life.

9. Improper beneficiary designations: Your Will and your beneficiary designations on life insurance, IRAs, 401k's and annuities should be consistent. A Will does not necessarily control the disposition of these assets.

10. Not periodically updating an estate plan: Generally, people do not like to discuss dying, and therefore people often want to simply execute their estate plan documents and be done with it. However, economic, family, and health changes require revisions to your estate plan.