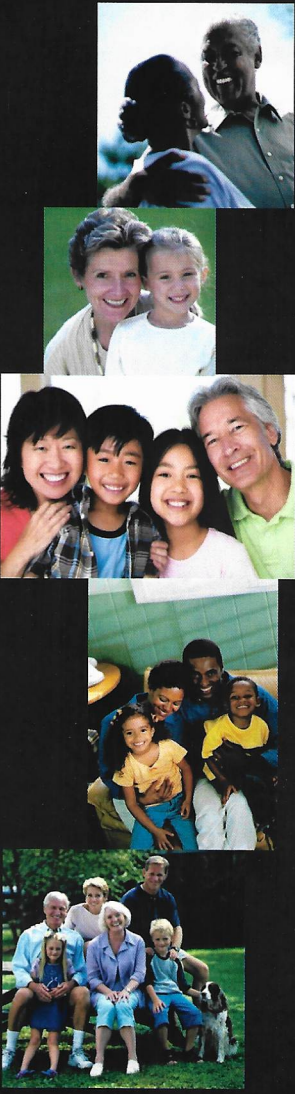


WHY ESTATE PLANNING IS IMPORTANT



Proper estate planning is vital - not only for you, but for your family. There are many misconceptions about estate planning that can cause major problems or cost your family their fortune. Many believe that saving on federal estate taxes is the main reason for planning, but family estate planning is so much more than avoiding taxes alone. Let's take a look at some of the biggest contributors to loss of assets and family frustrations that result from improper estate planning, and discover their solution.

Probate - In most cases, Probate is required to pass title and ownership of a deceased person's property to his or her heirs. If you have a Will, you WILL go through Probate. It can be a time-consuming process, from nine to twenty-four months. It can also be extremely costly - usually between 4%-10% of the value of your estate, which can be even more devastating to smaller estates. It's a misconception that if you have a smaller estate you don't need to do estate planning.

Probate proceedings are also public records, and *anyone* may find out about your private affairs. If you value your privacy and want to keep your hard earned assets, you will avoid Probate. The good news is that by setting up a well-written, fully-funded Revocable Living Trust, you can avoid the unnecessary time and expense of Probate.

Joint Tenancy - Joint Tenancy is a way to own assets with someone else, usually a spouse or child. While owning assets such as a home or bank account in Joint Tenancy may seem advantageous, the tax and legal

problems that may arise can be mind-boggling. The perils of Joint Tenancy can include:

- Only *delays* Probate, does not avoid it.
- Capital Gains Taxes are not avoided.
- Subject to Court Judgments or Creditors.
- Unintentional Gift Taxes you don't even know about.
- Control issues with Co-Owner.
- Accidental Disinheriting.

There are many planning options that are far safer than owning property in Joint Tenancy - one of those ways is with a good Living Trust.

State Estate Tax - Many states have a lower estate tax than the federal estate tax. That's why it's important for you to have a qualified estate planning professional work with you to achieve your goals. They can help you sort through all the problems, and find the right solutions for you.

CHOOSE THE FOUR "P's" OF
GOOD ESTATE PLANNING:
PROTECTION,
PROBATE AVOIDANCE,
PRIVACY,
AND PEACE OF MIND.

Incompetency - Without a proper estate plan, *any* relative may petition the Court to be appointed as your Guardian or Conservator if you become incapacitated or are declared incompetent. Because you are not able to say whom you want, the Court will appoint someone. Remember that a Court appointed Conservator has total control over EVERYTHING you own.

Advantages of a Living Trust - Establishing a Living Trust is an effective way to avoid many pitfalls of improper estate planning. A Living Trust avoids Probate, preserves your privacy, eliminates challenges to the estate, establishes Conservators, minimizes estate taxes, takes care of minor or disabled children, and allows YOU to be in continuous control or management of your assets.

"No one should have to go through the pain and agony of Probate like my mother had to suffer."

— Henry W. Abts, III
Author of
The Living Trust

MISTAKES THAT CAUSE HEIRS TO SUFFER NEEDLESSLY

- 1. Procrastination.** If you don't set up an estate plan, upon your death your property will be distributed according to the laws of your state of residence, generally known as Probate law. Often, the law will require the Probate judge to give your property to someone other than the people you would have chosen.
- 2. Relying on a Will.** If your estate plan consists of only a Will, congratulations, you are ahead of most. You might now consider that your family may face many costly and time-consuming problems such as Probate and/or Conservatorship proceedings. It is true that a Will is the most common estate planning tool, but it has many disadvantages including easy contestability - it actually *invites* contest.
- 3. Relying on Joint Tenancy.** Many people own their bank accounts and homes in Joint Tenancy, yet they do not realize the dangers of owning property this way. Joint Tenancy may cause families horrible legal nightmares, and ultimately, that property will be subject to the Probate Courts. You have many options that are better and safer than owning property in Joint Tenancy – one of those ways is with a good Living Trust.
- 4. Relying on a Form Kit for Your Will or Living Trust.** One size does not fit all - no two people or families are alike! Your family's needs, dynamics, personalities, and values are unique. If you use a form kit, you are asking for problems. Even LegalZoom.com reveals that **80 percent of people who fill in blank forms to create legal documents do so incorrectly!** Plus, if your Will or Living Trust is not executed properly, it becomes *invalid*. If you overlook the opportunity to write specific instructions about how you want to provide for your spouse and children, your family will receive whatever care the "cookie cutter" document provides, and you may not know of other options. The only estate plan you can rely on is one that is custom prepared by a qualified estate planning professional and attorney.
- 5. Relying on the Courts to Establish a Conservator.** A Conservator is a Court appointed person - sometimes even a stranger - the judge appoints if you can't take care of yourself. The Court hearings are costly, time consuming, and truly agonizing. And, *anyone* can apply to handle your financial and personal affairs if you become incompetent. But, when you set up a Revocable Living Trust and transfer your assets into it, you avoid the need for Conservatorship proceedings. A good Living Trust package should include language to deal with your incapacity, and should also include Powers of Attorney, Health Care Directives and Living Wills, HIPAA, and a Pour-Over Will.
- 6. Relying on the Courts to Establish a Guardian for Your Minor Children.** Well over 60% of parents with children under the age of 18 do not have any documents in place that will help if something happens. You might be comfortable assuming that your parents or sister or best friend will happily take on the responsibility of your kids if you died - but things rarely work out that way. It will take the Courts, and maybe even a battle to establish Guardianship. A pre-planned transition is much preferable.
- 7. Relying on Community Property Laws.** Many individuals decide to rely on Community Property laws. However, just like Joint Tenancy, most of your property will still have to go through Probate on the death of the spouse, *and* Community Property ownership requires a Conservatorship if a spouse is incapacitated. Relying on this method is not a good estate plan.

Don't procrastinate! Choose today to plan your estate with your professional estate planner.