



Avoiding Common Estate Planning Mistakes

Whether your estate plan is simple or complex, there are many details that can get overlooked and which may undermine your plan's effectiveness. The following is a list of the most common estate planning mistakes to avoid:

- 1) Titling property jointly with your children as a substitute for a will.** Unlike a will, transferring your property into joint ownership is irrevocable, which may prevent you from changing the transfer if circumstances change before your death. Also, titling your personal residence jointly can result in partial loss of the capital gain exclusion if it is sold before your death.
- 2) Failing to plan for the possibility of children getting divorced or having problems with creditors.** Parents often have cause to regret having made outright gifts to their child when the child subsequently divorces and the ex-son- or daughter-in-law is awarded an interest in the gifted property by a court, or when the property is taken pursuant to a legal judgment against the child by a creditor. Such problems can be minimized through proper use of trusts or a business entity, such as an LLC.
- 3) Failing to make sure that all your assets pass in accordance with your wishes upon your death.** Many types of assets can pass to your heirs or others based upon beneficiary designations (life insurance, IRAs, brokerage accounts). The provisions of your will cannot change a beneficiary designation. Remember to account for the assets for which you have already named a beneficiary when making your will. You should review your will, as well as all other beneficiary designations, when formulating your estate plan.
- 4) Uninformed about recent legislation affecting the gift tax and estate tax amount.** As of January 2018, the Federal tax law provides a 40% tax rate and a unified estate and gift tax exemption of \$11.2 million per individual and \$22.4 million per married couple (adjusted annually for inflation). You can make yearly gifts up to the annual exclusion amount of \$15,000 per person for gifts made by an individual and \$30,000 for those made jointly by a married couple that don't count against your \$11.2 million gift tax exemption.
- 5) Failing to maximize the benefits of the income tax basis Astep-up@ at death.** Low-basis/high-value assets should generally not be given away during your lifetime, since the basis for capital gain computation purposes will be increased to fair market value at death. If the asset is given away, the basis remains at the property's original cost. The benefits of a stepped up basis often apply to real estate and appreciated stocks.
- 6) Failing to indicate your desired funeral arrangements.** A pre-arranged funeral can greatly relieve

family members from additional stress upon your death. You should also prepare a Funeral Planning Declaration to name those with authority to carry out your wishes.

7) Failing to plan for disability. In the absence of adequate medical care directives, powers of attorney, or trusteeship of assets, costly and time-consuming court proceedings may be required in order to appoint a guardian or conservator to act on your behalf if you become disabled.

8) Not reviewing and updating your estate plan on a regular basis. Changes in the law and in your personal financial and family situation over time make it essential that you periodically review your estate plan to make sure it still carries out your wishes.

Hire Indianapolis, Indiana, long term planning lawyer Barbara J. Baird to help you avoid these common mistakes, meet your financial goals, and ensure all your final wishes are carried out in the best interests of your living relatives. Attorney Baird is compassionate, knowledgeable, hardworking, and skilled in the art of estate planning. Call today to schedule your consultation. 317-426-9334.