Will You Avoid These Estate Planning Mistakes?

Too many wealthy households commit these common blunders.

Many people plan their estates diligently, with input from legal, tax, and financial professionals. Others plan earnestly, but make mistakes that can potentially affect both the transfer and destiny of family wealth. Here are some common and not-so-common errors to avoid.

Doing it all yourself. While you could write your own will or create a will or trust from a template, it can be risky to do so. Sometimes simplicity has a price. Look at the example of Warren Burger. The former Chief Justice of the United States wrote his own will, and it was just 176 words long. It proved flawed – after he died in 1995, his heirs wound up paying over $450,000 in estate taxes and other fees, costs that likely could have been avoided with a lengthier and less informal will containing appropriate language.[1]

Failing to update your will or trust after a life event. Relatively few estate plans are reviewed over time. Any life event should prompt you to review your will, trust, or other estate planning documents. So should a life event affecting one of your beneficiaries.

Appointing a co-trustee. Trust administration is not for everyone. Some people lack the interest, the time, or the understanding it requires, and others balk at the responsibility and potential liability involved. A co-trustee also introduces the potential for conflict.

Being too vague with your heirs about your estate plan. While you may not want to explicitly reveal who will get what prior to your passing, your heirs should have an understanding of the purpose and intentions at the heart of your estate planning. If you want to distribute more of your wealth to one child than another, write a letter to be presented after your death that explains your reasoning. Make a list of which heirs will receive particular collectibles or heirlooms. If your family has some issues, this may go a long way toward reducing squabbles and the possibility of legal costs eating up some of this or that heir's inheritance.

Failing to consider what will happen if you & your partner are unmarried. The "marriage penalty" affecting joint filers aside, married couples receive distinct federal tax breaks in this country – estate tax breaks among them. This year, the lifetime gift and estate tax exclusion amount is $5.45 million for an individual, but $10.9 million for a married couple.[1,2]

If you live together and you are not married, it is worth considering how your unmarried status might affect your estate planning with regard to federal and state taxes. As *Forbes* mentioned last year, federal and state taxes claimed more than more than $15 million of the $35 million estate of Oscar-winning actor Phillip Seymour Hoffman. He left 100% of his estate to his longtime partner, and since they had never married, she could not qualify for the marriage exemption on inherited assets. While the individual lifetime gift and estate tax exclusion protected a relatively small portion of Hoffman's estate from death taxes, the much larger remainder was taxed at rates of up to 40% rather than being passed tax-free. Hoffman also lived in New York, a state which levies a 16% estate tax for non-spouses once estates exceed $1 million.[1]

Leaving a trust unfunded (or underfunded). Through a simple, one-sentence title change, a married couple can fund a revocable trust with their primary residence. As an example, if a couple retitles their home from "Heather and Michael Smith, Joint Tenants with Rights of Survivorship" to "Heather and Michael Smith, Trustees of the Smith Revocable Trust dated (month)(day), (year)". They are free to retitle myriad other assets in the trust's name.[1]

Ignoring a caregiver with ulterior motives. Very few people consider this possibility when creating a will or trust, but it does happen. A caregiver harboring a hidden agenda may exploit a loved one to the point where he or she revises estate planning documents for the caregiver's financial benefit.

The best estate plans are clear in their language, clear in their intentions, and updated as life events demand. They are overseen through the years with care and scrutiny, reflecting the magnitude of the transfer of significant wealth.

Citations.

1 - raymondjames.com/pointofview/seven_estate_planning_mistakes_to_avoid [10/16/15]
2 - fool.com/retirement/general/2015/12/11/estate-planning-in-2016-heres-what-you-need-to-kno.aspx [12/11/15]