

Key Estate Planning Mistakes to Avoid

Too many people make these common errors.

Many affluent professionals and business owners put estate planning on hold. Only the courts and lawyers stand to benefit from their procrastination. While inaction is the biggest estate planning error, several other major mistakes can occur. The following blunders can lead to major problems.

Failing to revise an estate plan after a spouse or child dies. This is truly a devastating event, and the grief that follows may be so deep and prolonged that attention may not be paid to this. A death in the family commonly requires a change in the terms of how family assets will be distributed. Without an update, questions (and squabbles) may emerge later.

Going years without updating beneficiaries. Beneficiary designations on qualified retirement plans and life insurance policies usually override bequests made in wills or trusts. Many people never review beneficiary designations over time, and the estate planning consequences of this inattention can be serious. For example, a woman can leave an IRA to her granddaughter in a will, but if her ex-husband is listed as the primary beneficiary of that IRA, those IRA assets will go to him per the beneficiary form. Beneficiary designations have an advantage – they allow assets to transfer to heirs without going through probate. If beneficiary designations are outdated, that advantage matters little.^{1,2}

Thinking of a will as a shield against probate. Having a will in place does not automatically prevent assets from being probated. A living trust is designed to provide that kind of protection for assets; a will is not. An individual can clearly express “who gets what” in a will, yet end up having the courts determine the distribution of his or her assets.²

Supposing minor heirs will handle money well when they become young adults. There are multi-millionaires who go no further than a will when it comes to estate planning. When a will is the only estate planning tool directing the transfer of assets at death, assets can transfer to heirs aged 18 or older in many states without prohibitions. Imagine an 18-year-old inheriting several million dollars in liquid or illiquid assets. How many 18-year-olds (or 25-year-olds, for that matter) have the skill set to manage that kind of inheritance? If a trust exists and a trustee can control the distribution of assets to heirs, then situations such as these may be averted. A well-written trust may also help to prevent arguments among young heirs about who was meant to receive this or that asset.³

Too many people do too little estate planning. Avoid joining their ranks, and plan thoroughly to avoid these all-too-frequent mistakes.

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Retirement Decisions

Why Beneficiary Designations Override Your Will

It's critical to review beneficiary designations.

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By Dana Ansbach
Updated October 08, 2016

When is the last time you checked to see who you named as the beneficiary on your retirement accounts, life insurance policies, and annuities? It is amazing the number of people who have prior spouses or deceased relatives still named as a beneficiary on a retirement account at a former employer, or

on a life insurance policy purchased long ago.

Beneficiary designations can be more important even than a will.
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Why Review Beneficiary Designations?

Many people neglect to update their beneficiary designations after a marriage, divorce, or other change in their family situation.

It's easy to forget to do this, and of course it involves paperwork, and who likes paperwork?

The problem with this; the beneficiary designation is a legally binding document and it supercedes your will. That means regardless of your current relationship status, and regardless of what your current will says, the asset will go to the person you named in the beneficiary designation whenever you last updated it.

Beneficiary Designations Trump the Will

Some people think an updated will is all you need. Your will or trust will not override what is named in the beneficiary designation on a life insurance policy, annuity, or retirement account (like an IRA or 401(k) plan). The beneficiary designation takes precedence, or as one poker player put it "the beneficiary

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designation trumps the will". And if you don't name anyone on an IRA account? State laws can then determine who it goes to. For this reason, it is important you update your beneficiary designations to reflect your current wishes.

Example of planning gone bad: I worked with a client who's wife worked for a large national defense company. It was a second marriage, and when she got ill with a serious cancer, she had a trust drawn up. She wanted her two children and husband to each get one-third of her assets. However, she did not update her beneficiary designation with her 401(k) plan and so that sizeable account all went directly to the husband.

He wanted to honor her wishes (luckily for the kids from her prior marriage), but if he cashed in the 401(k) and paid it to the kids he would have to report all the income on his tax return. He and the kids decided instead to set up an IRA in his name, but with the kids named as the beneficiaries, and they agreed with each distribution he made to them he could withhold enough to cover the taxes. This turned out okay, but will be an ongoing administrative hassle for years. This type of hassle could have been avoided by updating the retirement plan beneficiary form at the wife's employer. (Note: the employer had no choice - they must follow the beneficiary designation form on file and cannot change the distribution after death even if all parties agree to the change.)

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How to Review Beneficiary Designations

Make a list of each retirement account, life insurance policy, and annuity that you have. Add two columns to your list; one for the beneficiary and one for a date. For each account or policy write down the beneficiary and the date it was last updated. In addition to a primary beneficiary, you should also name a contingent beneficiary. This means if the primary beneficiary predeceases you, you have already specified who the account should then go to.

Keep this list in a binder or file folder along with your other important documents. Regardless of any changes, make it a habit to pull this binder out once a year and review the information in it.

If you need to update a beneficiary, contact the company. They will send you a beneficiary designation form which you will need to fill out, sign, and return to them.

What About a Trust?

Many people establish a revocable living trust, which governs all the assets that are titled in the trust. For example, you could title bank accounts, investment accounts and real estate in the trust. You are the trustee and control the assets while alive

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and healthy.

The trust document names a successor trustee so if you become incapacitated or die, the successor trustee can easily take over without a lot of administrative hassle.

With an IRA or 401(k), a real person must be the account owner. You cannot re-title the IRA or 401(k) into the trust. You can name the trust as the beneficiary of your IRA, but there can be drawbacks to this. If you have substantial assets in IRAs and other retirement plans, it is best to work with a qualified estate planning attorney to help you figure out the best way to name beneficiaries.

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3 Ways to Keep Your Estate out of Probate

Save your loved ones a lot of hassle and expense by taking steps now to protect your estate from probate.

Wendy Connick (@imwconn)
Mar 3, 2017 at 6:46AM




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Unless you're a lawyer, there's nothing good about the probate process. Probate is basically a drawn-out clerical process meant to confirm that the deceased's will is being honored. Unfortunately, a simple will can't always protect a person's assets from the probate process, which can involve months of filling out forms and meeting procedural requirements -- all while


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Legal Age to Inherit

by Anna Assad



State laws control whether a child can inherit or have to wait.

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laws and the size of the property the guardian will manage. The bond protects against loss to the child's assets. Some states


A child considered a minor by her state of residence can inherit property, but she can't manage it. The legal age of inheritance, meaning control of the property, varies by state and by the value of the inheritance but is 18 in most cases. For example, a child may take control of his inheritance at 18 in Colorado, but if the inheritance is more than \$10,000, he has to wait until he's 21. A parent or relative of a minor child has more than one option when deciding how to provide for a minor's inheritance.

Property Custodian

The Uniform Transfer to Minors Act, enacted in all states but Vermont and South Carolina at the time of publication, allows for the creation of property custodians for minors. A person may name a property custodian specifically for a minor child's inheritance in his will. The custodian manages the assets left to the child in the will until she reaches the state's legal age of adulthood. Once the child is considered an adult, she has full control over her inheritance. A person may name a property custodian as beneficiary on behalf of a minor child on accounts and plans that require beneficiary naming, such as retirement plans, but his wording must indicate his intention. For example, he may list, "John Doe, as custodian for Jane Doe, a minor child, under the Uniform Transfer to Minors Act" as the beneficiary on a retirement plan.

Property Guardian or Conservator

If in your will you name a guardian for the inherited property of any minor child, the property guardian will manage all the child's inherited assets until she reaches adulthood. A property guardian named in a will must receive court approval; the court formally appoints the guardian. A property guardian may have to post a bond with the court as a condition of appointment. The bond amount varies, depending on state laws and the size of the property the guardian will manage. The bond protects against loss to the child's assets. Some states



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