10 Deadly Mistakes Made in Setting Up a Trust or Will and Easy Ways to Avoid Them

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These tips could save your family months of agony and many thousands of dollars.

Probate:

The word alone strikes fear and dread in the hearts of retirees or soon to be retirees.

Estate Taxes:

The assets that are confiscated by the government at your death if you don't plan appropriately.

Excessive Attorney Fees:

What your heirs could pay if you make a mistake and don't properly plan your estate.

All of these problems can easily be avoided with a few simple, easy steps.

Yet many people don't take the short time and the few simple steps that are necessary to avoid these all too common problems. In fact, over 70% of all Americans that die each year, die without even a simple will.

Why don't people take a few minutes and plan as they should?

There are really only two possible reasons:

1. They don't know the risks.
2. There's no sense of urgency, so they wait until it's too late.

Even if you've met with an attorney and think you have everything completely taken care of—chances are you could still be making routine estate planning mistakes that **could possibly cost your heirs thousands upon thousands of dollars.**

Mistake # 1- Having absolutely nothing in writing, is the most unpredictable and costly manner in which to settle an estate.

Everybody has an estate plan. If you don't create one, on purpose, through carefully drafted wills, trusts and other documents, your state legislature will step in with a plan of its own. This plan, called the laws of intestacy, dictates who will get your assets, how they will get them and guarantees that your estate will pay the highest possible estate taxes in the process.

If you're happy with your state legislature deciding who will receive your assets after you're gone and especially if you want to pay the federal government the maximum estate taxes. Then no additional work on your part is required. But if you're not willing to hand over control, you have to develop estate plans of your own and they have to be developed now.

Mistake #2- Why the State and Federal Government LOVE the "I Love You Will".

Most people have very simple wills. They say that when one spouse dies, all of the property goes to the surviving spouse and, when they're both gone, all of the property goes to their children. This is very straight forward. For people with modest estates, these wills work fine.

For couples with estates which exceed $5,250,000 (after 2012), however, these wills create thousands of dollars of potential unnecessary taxes. And for anyone who wishes to avoid probate, this is a surefire way to fail. These simple wills waste an opportunity to keep up to $1,000,000 of assets free of estate taxes. On a modest $2,500,000 estate, this single error can cost $210,000 .

The solution is to have provisions in your wills or living trust agreements which create a **bypass trust** (also known as a credit-shelter trust) at the death of the first spouse or explore other options available. At Lake Wealth we can point you to the appropriate legal team to help maximize your estate planning process.

Mistake # 3- Not understanding the implications of unbalanced property ownership (why each spouse should own equal amounts of your combined assets).

If each spouse owns substantially equal property, then bypass trusts can function neatly to avoid estate taxes on up to $5,250,000 (after 2012) of assets. However, if one spouse owns millions and the other spouse has only a small estate, the bypass trust's effect will be largely wasted if the less affluent spouse dies first. To avoid that, spouses should consider the benefits of balancing their property ownerships.

Additionally, spouses now have the same estate tax gifting ability which ultimately will double this amount. The concern is, that these estate gift transfers may be lowered significantly! Make sure your trust is developed to keep this in mind.

Mistake # 4- Not knowing exactly what your estate planning documents will do with your assets.

Most people think that their wills control who will get what when they die. Surprisingly, many assets are transferred based on provisions which can contradict and supersede those of a will. Bank accounts, certificates of deposit, retirement plans, IRAs, annuities, life insurance policies, real estate and countless other assets are often not controlled by wills.

In the case of jointly owned assets - bank accounts, stock accounts and real estate are often owned this way - the surviving joint owner often becomes the sole owner of the assets. While retirement plans, IRAs, annuities and life insurance proceeds transfer to named beneficiaries, not necessarily to the people named in a will. Property ownership forms and beneficiary designations need to be coordinated with your will planning. If they aren't, **your carefully drawn will can become meaningless** and the estate tax savings which it tried to create will be defeated.

Mistake # 5- Improperly-owned life insurance can become an estate tax problem.

Life insurance is often a significant part of many affluent estates. Many people own life insurance because of the immediate liquidity it will provide and because they understand that life insurance death benefits are tax free. They're only half right.

Life insurance death benefits are not subject to income tax. However, they are subject to estate taxes if the policies are owned by the insured at his/her death. **This can destroy up to 60% of the policies' values.**

A very wise way to avoid this is to have life insurance owned by an irrevocable trust. While the needs of the surviving spouse need to be addressed, life insurance which is intended to pass to future generations should clearly not be owned by the insured's.

Mistake #6- Trying to take assets with you, instead of using specific trust strategies to reduce or eliminate estate taxes.

There are only three ways to reduce estate taxes: spend the money, have the appropriate will/trust or give it away while alive. Affluent people, especially the self-made variety, often do a very poor job of either spending it or giving it away. They got where they are, financially, by being "accumulators" and they have a hard time with not continuing that lifetime habit.

While thrift is an admirable quality, too much of this good thing plays right into the IRS' hands. They and Congress want you to have the biggest estate possible when you die. They want your ignorance, procrastination and paranoia to stop you from taking advantage of a whole range of laws which can result in your estate paying zero taxes while you maintain your financial independence forever. The IRS collects millions and millions of estate taxes every year which could have been legally avoided from the estates of people who never quit being "accumulators".
Of all the taxes we are forced to pay **the worst** in our opinion is **the federal estate taxes**.

The very fact that **our government taxes the estates of dead people who have simply done what the government says they want you to do: fulfill the American Dream.**

You know: Work hard. Invest well. Leave a legacy for your family…Some reward.

Mistake #7- Lack of liquidity may force families into selling your most treasured assets at garage sale prices.

Many affluent people create estates of great value which, at death, are very illiquid. Holdings of **real estate, farms and family businesses** often represent 90% or more of affluent estates. But, if those estates are subject to taxes of over 50%, those assets **often have to be sold at fire-sale prices** to pay them.

Estate taxes are generally due within **9** months of death.

Forcing your family to choose between sacrificing a treasured asset or taking on an enormous burden of debt to pay estate taxes is simply stupid. It is also totally avoidable.

Mistake # 8- Equal distribution of assets to heirs.

Most people have great love for all of their children and they want them to share equally in their estates. An admirable intent, but "equal" is not the same thing as "equitable".

While dozens of examples exist, a common problem, often mishandled, is when a person owns a business in which some of the children participate. Giving both participating and nonparticipating children equal shares of the business is a near guarantee for disaster.

This blunder has destroyed more businesses and families than probably any other estate planning mistake.

If you have a business, a farm or some other income-producing asset and some of your children participate in its management, don't carve it up equally between all of your children. Provide the business to your participating children and give your non-participant children non-business assets. If this creates an unbalanced distribution, consider creating additional assets through life insurance.

Mistake #9- Unknowingly saddling children with the largest debt they may ever have.

The same kinds of people who would blanch at a $500 MasterCard bill often leave their children with a range of estate problems that can only be solved by millions of dollars of new debt.

Illiquid but substantial estates often have to borrow great amounts of money to pay estate taxes. Those borrowings can come from a bank or, in some cases, from the Treasury, but they all require complete repayment of principal plus substantial interest. Too often, the assets which triggered the tax - and the loan - can't generate enough income to cover it.

Enormous debts are also created when children who participate in a family business are compelled to buy-out their non-participating siblings' interests. This not only creates great financial pressures but the process of negotiating a buy-out can create much acrimony. Many families have been destroyed by just such a challenge.

Life insurance is frequently the best solution to these financial problems. Too often, however, affluent people and their advisors don't adequately explore this option because of ignorance and misunderstanding.

Mistake #10- Thinking to yourself "It's all been taken care of . . ."

Good estate planning is never truly "done". As your circumstances change and evolve over the years, your plans need to be kept current and apace with them.

Few attorneys call in their clients for an annual estate plan review. Fewer clients sit down, annually, and take stock of their situation. But if they did - if you do - millions of dollars can be saved and much heart-ache can be avoided.

Conclusion

Most people spend more time arranging a single vacation than they spend on estate planning in their lifetime. Whether you consider yourself affluent or not, **that's not smart**. It's very smart, however, to meet annually with qualified financial advisors and ensure that your plans are both current and complete.

Here's a test to see if they are: will your current plans give what you have to whom you want, when you want, in the way you want and do it all at the lowest possible cost? If you can honestly answer "yes", not being out of stubbornness, then congratulations. If not, then make an appointment now to fix this problem. No one can do it but you and you may have a lot less time to solve it than you think. And if you're not sure about that, go back and read item number one on this Top 10 list of estate planning mistakes - the one about procrastination.
And then grab the phone.

We could tell you about situation after situation where people think everything is taken care of, or simply just don't feel like doing anything now. The pattern is the same:

- They know exactly what they would like to have happen when they die.
- They put off doing anything about it until later, whenever that is.
- Something happens that makes it impossible to plan as they would have liked to.

End Result: The assets they worked so hard to accumulate are stolen (legally in most cases), squandered, or consumed by the giant money consuming tax monster we call Washington DC.

Important! An hour of appropriate Estate and Investment planning means as much as a "Lifetime of Work"

The bottom line is this:

If you're like most of the people we talk to, hundreds or more than likely thousands of dollars are heading in some other direction than into your pocket or your heirs, needlessly. To make matters worse, if you do nothing about it, you will continue to make these financial mistakes without the knowledge you're making a mistake at all.

That is potentially very dangerous.

Call our offices. Chris Lake's number is **217-251-2274**. Ask Chris
To schedule a free **30-minute** meeting. Free of charge.

P.S. If you're still skeptical, and want to know more about Retirement Resources, just visit our website at www.WealthConsultants.net. We are a highly specialized wealth planning firm that has partnered with the top investment management teams in the industry.