Tips to Avoid Common Estate Planning Mistakes

With a few simple actions, you can ensure your estate planning is effective

Whether your estate plan is simple or complex, there are many details, which are often overlooked, that can undermine your plan's effectiveness. Are you aware of these common estate planning mistakes?

- **Titling property jointly with your children as a substitute for a will.** Unlike a will, a transfer of an interest in your property is *irrevocable,* which may prevent you from changing the disposition if circumstances change before your death. Also, titling your personal residence jointly can result in partial loss of the capital gain exclusion if the property is sold before your death.

- **Failing to plan for the possibility of children getting divorced or having problems with creditors.** Parents may regret having made outright gifts to their children if they subsequently divorce and an ex-son- or daughter-in-law is awarded an interest in the gifted property by a court. Or, in another situation, gifted property may be taken pursuant to a legal judgment against the child. Such problems can be minimized through proper use of trusts or a business entity, such as a limited liability company.

- **Failing to make sure that all your assets pass in accordance with your wishes upon your death.** Many types of assets, including life insurance, IRAs, and brokerage accounts, can pass to your heirs or others based upon beneficiary designations. The provisions of your will cannot change a beneficiary designation. Remember to account for things you've already designated. You should review your will, as well as all other beneficiary designations, when formulating your estate plan.

- **Underestimating the true value of your estate for Federal estate tax purposes.** Many people are unaware that the proceeds of their life insurance are includable in their taxable estates if they own the policies. This could bring the total value of their estates to more than the amount sheltered from estate tax by the applicable exclusion amount. For people who pass away in 2022, the exemption amount will be **$12.06 million** (it's $11.7 million for 2021). For a married couple, that comes to a combined exemption of $24.12 million.

- **Failing to consider state death taxes in light of recent changes in the law.** Many states have "decoupled" their death taxes from the Federal estate tax, which means your estate could be subject to death tax in a state even if no Federal estate tax is due. This could result in an unpleasant surprise to your heirs upon your death, one that might be avoidable with proper planning.

- The laws of each state where you own property should be carefully reviewed in order to determine the potential exposure to state death taxes and how to minimize them.
- **Failing to maximize the benefits of the income tax basis “step-up” at death.** Low-basis/high-value assets should generally not be given away during your lifetime. The basis for capital gain computation purposes will be increased to fair market value at death, but the basis remains at the property’s original cost if the asset is given away.

Some of these common mistakes can be avoided with a few, simple actions. Early and thorough planning can help you reach your financial goals and leave a lasting legacy.