



The Ten Most Gruesome Estate Planning Mistakes

1. DYING INTESATE

If you die without a Will or some other form of estate planning, the state in which you reside and the IRS will simply make one for you. Of course, they have no interest in avoiding or reducing estate taxes, minimizing estate administration costs or protecting your family and legacy. The distribution of your assets will just be turned over to the Probate Court. The probate process is needlessly time consuming, frustrating and expensive. It is also open to the public, meaning creditors, predators or anyone else will have complete access to all information about your estate. For the vast majority of people, the benefits of a Will or other estate planning tools far outweigh any initial costs.

2. HAVING AN “I LOVE YOU” WILL

An “I love you” Will is one in which all the decedent’s assets have been left to the spouse. On paper, it might seem to be a caring, thoughtful gesture, but the reality is quite different. That’s because such a Will simply passes the complex issues and problems associated with transferring and protecting wealth onto the spouse

or other loved ones. An “I love you” Will creates more problems than it solves, particularly for future generations.

3. GIVING PROPERTY OUTRIGHT TO YOUR CHILDREN

Here is another “solution” that might sound good at first, but ignores several important realities. For instance, what if the child in question is too immature to handle the responsibility of a large sum of money on his or her own? What if the child suffers a severe financial setback that puts the inheritance at risk to creditors? What if the child marries a fortune-hunter, is addicted to drugs or alcohol, gets divorced or remarried? In short, you may need to protect your children and heirs from their own poor decisions.

4. OWNING PROPERTY JOINTLY

There are two types of joint ownership, Joint Tenancy with Right of Survivorship (JTWROS) and Tenants in Common (TIC). Problems with JTWROS include postponement of probate until last tenancy, loss of the double step-up in tax basis, and outright distribution. With TIC, you also lose the double step-up in tax basis, and your property is subject

to the estate plan of each tenant as well as probate for each tenant.

5. NOT HAVING A TRUST

A trust is the single most effective estate planning tool available. There are many different types of trusts. Among the better known and more commonly used are revocable trusts, irrevocable trusts and testamentary trusts. In addition to protecting your privacy, a trust will help you leave what you want, to whom you want, in the way you want—at the lowest possible cost.

6. NOT FUNDING YOUR TRUST

A trust can be thought of as a safe. It can do a great job of protecting your hard earned wealth, but if there’s nothing in the trust—i.e. nothing in the safe—what good does it do you? None whatsoever. Which begs another question, why would someone go to the trouble of creating a trust and then not fund it? The answer is quite often that the person in question simply never gets around to it. He or she procrastinates, resulting in an unfunded trust—which is worse than no trust at all.