

Just like individuals, business owners fail to make plans, have the wrong plan or even an outdated plan for the eventual transfer of their business interests. A comprehensive Life & Estate Plan may incorporate planning for the business succession. For example, if some children are “active” in the business and others are not, how do you treat everyone equally as well as fairly?

### Joint Tenancy With Rights of Survivorship

(In some states “Tenancy by the Entirety” when between spouses) This is the most common form of asset ownership between spouses. Joint Tenancy (or TBE) has the advantage of avoiding probate at the death of the first spouse. However, the surviving spouse should not add the names of other relatives to their assets. Doing so may subject such assets to loss through the debts, bankruptcies, divorces and/or lawsuits of any additional joint tenants. Joint tenancy planning also may result in unnecessary death taxes on the estate of a married couple.

### Procrastination Perils

Some 60 percent of adult Americans have no estate plan at all and many others have an outdated plan that no longer meets their needs. As a result, these otherwise responsible adult Americans may leave a legacy of unnecessary pain and conflict for their loved ones.

Finally, whatever you do regarding your estate planning, seek appropriate legal counsel. It will be time and money well spent.

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Services provided include legal consultation and the preparation of:

- Revocable Living Trusts • Wills • Powers of Attorney • Living Wills • Healthcare Power of Attorney • Life Insurance Trusts • Family Limited Partnerships • Limited Liability Companies • Corporations • Charitable Trusts • Medicaid Planning • and Other Estate Planning and Tax Planning Strategies

## COMMON ESTATE BLUNDERS



*P*roper estate planning is not just for the rich and famous. Every adult American has an estate worth planning, regardless of their net worth.

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Quick. When you hear the words estate planning, what mental images do you see? Do you see beautiful, tanned people with incredible wealth, living in enormous mansions, riding in shiny limousines and boarding private jets bound for exotic destinations? If so, then you are only partially correct. In reality, everyone has an estate worth planning. Some are just more complex than others. Here are some basic estate blunders common to princes and paupers alike.

### **Incapacity Issues**

Every 18-year-old has an estate, even if they have only two dimes to rub together. On your 18th birthday you are considered an adult American citizen and you become responsible for your own personal, health care and financial decisions. Even your parents become strangers to you, in a legal sense, should you become incapacitated due to an injury or an illness. This same legal strangerhood applies, by the way, between spouses.

As a result, every person age 18 and older, married or single, must appoint agents through proper Durable Powers of Attorney to make their personal, health care and financial decisions in the event of their incapacity. Alternatively, a court process involving at least three lawyers will be required to appoint agents to make such decisions for you under the ongoing supervision of the court. And this can be rather expensive and invasive of your privacy.

### **Minor Children Matters**

Silver and gold aside, if you are blessed with children, then they are your most valuable assets... even if you feel like trading them for S & H Green Stamps at times. If your minor children were orphaned, who would rear them to adulthood and impart your morals and values to them? Only through a Last Will & Testament can you appoint the appropriate guardians (i.e., back-up parents) for your minor children. Alternatively, a court process would be required to appoint them. This court process is not only expensive and public,

but the court may not appoint the same parties you would have selected.

### **Death & Taxes**

On every actuarial chart of every life insurance company death is a 100 percent certainty. In fact, there is a long history of anecdotal evidence to support those charts. When it comes to transferring your earthly possessions upon your death, you can either make it easy on your loved ones through proper estate planning or you can leave it up to the court system by default. Prior planning is, without fail, the more efficient and effective option. There are a variety of planning methods to accomplish this transfer. For example, Revocable Living Trusts are commonly used to transfer assets post-mortem, independent of the legal system in many states.

Benjamin Franklin observed that the only two certainties in life are Death & Taxes. The United States Supreme Court has ruled that no taxpayer should pay more than his or her fair share in taxes. That said, proper estate planning can save hundreds of thousands of dollars from unnecessary federal estate taxes. If you are married, is your estate plan taking full advantage of your available estate tax exemption through a combination Credit Shelter/QTIP Marital Trust?

### **Inheritance Risks**

No one values the worth of a dollar like the person who earned it and paid taxes on it. Have you arranged your estate to impart your work

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ethic to the next generation and beyond? Careful consideration should be given, therefore, to protecting and preserving an inheritance through one or more Long-Term Discretionary Trusts for your loved ones. Properly structured, such trusts will protect and preserve an inheritance for generations to come from squandering, divorces, lawsuits and bankruptcies. Without proper estate planning, a lifetime of thrift can disappear in a season of conspicuous consumption or through personal misfortune.

### **Multi-State Real Estate**

If you own real estate outside your home state, it will be subject to probate in the state where it is located... unless you have made proper legal plans to avoid the probate process. In some states probate is less burdensome than in other states. However, if

you choose to avoid probate you must make appropriate legal plans in advance.

### **Tax Planning For Retirement Plans**

Due to government support of employer-sponsored retirement plans, much of the private, individual wealth in America is in qualified retirement plans. Unless they carefully coordinate their financial plan with their estate plan, much of a married couple's retirement monies could pass to the IRS instead of their loved ones. With proper coordination, however, the tax impact on these unique assets can be substantially minimized or eliminated.

### **Business Succession Planning**

Statistically, only 30 percent of family businesses survive from the founding generation to the next. The success rate thereafter is even more dismal.

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