The Law Office of
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Senior planning time bombs — And how to avoid them

In this day and age of living longer, people not only need to plan for what happens with their estate when they die, but also what happens if they live and need some form of long-term care.

A good plan should be a clear road map. Failing to plan is without a doubt a mistake. Inaction and inadequate planning can result in disaster for your loved ones.

Your estate can fall into the wrong hands. The IRS can end up with far more than its fair share, or your heirs can battle endlessly. None of this will happen to your estate as long as you avoid the most frequent and damaging planning mistakes, as written in bottomlinesecrets.com:

1. Not having a will. If you die without one, your assets will be divided according to state law, which may not be what you desire. For example, in some states, your spouse and children split your estate.

2. Focusing solely on taxes. To many people, estate planning is synonymous with tax planning. They reason that since the federal estate tax exemption is now $2 million -- they won't owe estate tax and don't need to do any planning.

The size of your estate, taxes or no taxes, should never determine whether you have a comprehensive plan. Most estate-related family disputes are not even about money. They occur because people ignore the human element of estate planning.

For example, heirs may squabble over furniture, inexpensive jewelry, family photographs, etc. -- things you might never think they would fight over.

Or, you might name one child as executor, and inadvertently slight your other children no matter how the assets are divided up.

3. Being mysterious. It may make good TV drama, but there's usually nothing to be gained by keeping heirs totally in the dark about your intentions.

Explain your choices to them, and specify your bequests. Give away heirlooms while you're alive -- you'll get to see your heirs enjoying them, and they won't have to fight over them later. It's vital to let your family know what you would want done if difficult medical decisions have to be made.

Strategy: Discussions with family are not legally binding. Neither are personal notes. Include your wishes in formal legal documents to prevent fights. Have a living will drafted stating your health-care wishes. Get a health-care proxy appointing an agent to make decisions.

4. Failing to update beneficiary designations. Life insurance policies, retirement accounts, payable-on-death (POD) accounts set up at banks and with brokerage firms and certain other assets will pass to the beneficiaries you have named in the accounts' paperwork, no matter what it says in your will. You should check periodically to make sure your beneficiary choices in these accounts are current.

After a divorce, for example, you probably won't want your ex-spouse to be the beneficiary of your life insurance or your IRA.

5. Relying on outdated documents. Assets change, families change and laws change. All of your estate-planning documents -- will, trusts, letters of instruction to your executor, power of attorney -- should be reviewed at least once every three years, and any time a law changes.

The estate tax exemption is scheduled to rise, though, so such a plan may leave too much to the kids and too little to your spouse.

6. Naming the wrong executor. After your death, your executor will become the quarterback of your estate plan, responsible for handling all the assets that transfer under your will.

Trap: If you name your spouse, he/she might be too overcome by your death to function well. Similarly, it may not be practical to name your son, who lives across the country.

Strategy: Name a younger relative who lives nearby, someone who is organized and detail-oriented. If you

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-Time bombs

think your spouse's feelings will be hurt, designate such a person co-executor along with your spouse. Whoever you name, make sure to ask him if he is willing to serve. Name two or three backups, too, in case your first choice is unable or unwilling to act.

7. Making things difficult for your executor. If your financial papers are scattered everywhere, handling your estate will be more difficult and time-consuming. Valuable assets (such as life insurance policies) may be overlooked.

Strategy: Keep copies of your documents in one place, such as a looseleaf binder or folder. Write on each copy where the original is located -- and let your executor know where the originals can be found -- such as with your lawyer, who may have your original will.

Simplify things for your executor by consolidating accounts with one bank, one broker, one mutual fund company, one insurance company, etc., to the extent that is practical.

8. Improper use of joint ownership. As you grow older, you might want to add the name of a relative, such as your daughter, to your bank or brokerage accounts. This joint owner could write checks, handle investments and so on, if you become unable to manage your own affairs.

Trap: Your co-owner will automatically inherit that asset, freezing out all other heirs no matter what's in your will.

Strategy: Instead of joint ownership, give your trusted friend or relative a durable power of attorney over your accounts. This person will be able to handle your affairs if need be, yet your will shall remain fully in effect. A comprehensive power of attorney is a very valuable planning tool.

9. Underestimating the size of your estate. Despite all the talk of estate tax repeal, the federal estate tax is still on the books.... and most states are increasing their estate taxes.

If you leave a sizable estate, chances are that your heirs will owe some tax.

Trap: Even if you don't think of yourself as rich, if you die while owning real estate, life insurance policies and a retirement account, you may be in estate tax territory, especially in 2011 when the exemption is slated to roll back to $1 million.

Strategy: Some planning can help reduce the tax burden you'll leave to your loved ones.

You also may want to arrange for insurance on your life to be purchased in a trust if your estate will need cash to cover an expected estate tax bill.

10. Not coordinating advisers. Good estate planning involves a variety of skills. Having all your legal documents (will, trusts, etc.) in order may not guarantee a sound estate plan if your life insurance isn't handled properly.

Make sure all of your advisers know about each other -- and about your entire estate plan -- so they can work with each other to ensure a happy ending.

11. Not planning for the possibility that you or your spouse may need some form of long-term care. According to a survey done by the Metropolitan Life Insurance Co., the average stay in a nursing home is 2.6 years and the average cost for basic care (room and board) is $5,000 per month in the Midwest. An average stay in an average home could cost your family over $150,000.

At Common Sense Elder Law Firm, we help plan financially for this possibility.

Half our life is spent trying to find something to do with the time we have rushed through life trying to save.

-Will Rogers

Avoid the 'negative inheritance' problem

People who fail to prepare to care for sick and aging parents could fall victim to what economists call "negative inheritance."

The term describes the situation when the costs to children of caring for aging relatives outstrips any gifts or bequests they might receive in return.

To protect against the havoc a negative inheritance could wreak on a financial plan, there are strategies to avoid this. These methods typically include a combination of family dialogue, long-term care planning and proactive management of assets.

Researchers long ago projected a large portion of baby boomers would find themselves in the uncomfortable position of becoming parents to our parents.

They become the primary caregiver who ushers parents through old age, and, very often, through chronic and debilitating diseases such as cancer or Alzheimer's. Yet as taxing as caring for declining parents can be — both to pocket and to the caregivers' emotional health — a recent survey said 91 percent of Baby Boomers report being generally pleased to be able to help their parents.

That's why it's never too early to start employing strategies outlined in this newsletter, or call Common Sense Elder Law for help.

MONEY MISTAKES SENIORS ARE MAKING NOW

A young person who squanders his/her nest egg may have decades to recover. But seniors cannot afford to make big financial errors.

From financial planner Alexandra Armstrong in the newsletter bottomlinesecrets.com, here are common financial mistakes -- and how to avoid them:

Mistake: Taking Social Security too soon. Many people begin collecting Social Security when they turn 62. But the earlier you start taking benefits, the smaller your monthly check. It is usually better to postpone Social Security until you reach the full retirement age. That age varies -- for instance, it's 65 years and 10 months for those born in 1942.

Example: If you were born in 1950 and earn $70,000 annually, according to the Social Security calculator, you would receive monthly benefits of about $1,307 starting in 2012, when you turn 62. If you wait until 66 (your full retirement age) in 2016, you will get $1,780 a month. You'll get $2,407 at age 70 in 2020.

Besides receiving smaller payments at 62, you run the risk of having your checks reduced if you decide later to go back to work. But if you are above your full retirement age, your payments will not be cut -- no matter how much you earn at a job.

If you wait to collect until you are age 70, you will receive the maximum monthly check. But you are gambling on your longevity -- you may not live to 70.

Calculated risk: If you wait until 70 to start receiving payments and then live past 78, you will have received more total income from Social Security than if you had begun receiving checks at age 65 and 10 months. Nonetheless, take the checks as soon as you reach full retirement age. If you don't need the money, invest it .

Mistake: Failing to take required minimum distributions from retirement accounts. When you turn 70½, you must begin taking payouts from your traditional IRAs. If you fail to take withdrawals on time, the IRS can impose a 50 percent penalty. This means that if you are late to withdraw $10,000, the government will charge you $5,000. To avoid problems, contact the custodian of your IRA to have the withdrawal amount paid directly to your bank well before the end of the year, then check to make sure it happens.

Mistake: Paying off mortgages too soon. For peace of mind, this may be important. But if you plan to sell off other assets to accomplish this, you may do better by keeping the mortgage debt.

Keep the money invested in a portfolio that is expected to earn more than 5.75 percent. That way, you can use the earnings to cover the mortgage and still have some investment income left.

Mistake: Ignoring inflation. Many people figure that inflation won't significantly erode the value of their investments. After all, the consumer price index (CPI) has historically risen at an average annual rate of only 3 percent, and a well-constructed investment portfolio should do much better than that over time. But even small price increases whittle away your purchasing power.

For protection, emphasize dividend-paying blue-chip stocks in your portfolio. These tend to appreciate over time, and many raise their dividends at annual rates that are well above the long-term average increases in the CPI. Don't just rely on income from fixed sources, such as bonds or pensions, which can be eaten by inflation.

Mistake: Paying bills by check. Many retirees don't trust electronic systems. But the more important danger is that you will forget to pay on time and incur penalties. That can hurt credit ratings and increase borrowing costs.

Consider direct deposits. This saves time and reduces errors. If the account is interest bearing, automatic deposits will boost your income, since payments will spend more time in your account and less time in the mail.

You can also automate payments. That way, you won't miss payments -- even if you take a trip overseas.

Mistake: Holding stock certificates personally. Many people insist on holding paper stock certificates in their bank safe-deposit boxes because they are afraid of losing the securities. When they need to make sales, these investors run to the bank vault, retrieve paper shares and mail them to their brokers -- a time-consuming and error-prone process. But all reputable brokers are members of the Securities Investor Protection Corporation (SIPC). It is now very efficient to have your broker hold the certificates, and at tax time, you have one convenient record.

A life spent making mistakes is not only more honorable but more useful than a life spent doing nothing.

-George Bernard Shaw

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Know someone who might benefit from this newsletter?

PASS IT ON!

Or send us their name and contact information and we'll share with them all the information they need to start a worry-free life.

LESSONS MY GRANDFATHER TAUGHT ME

My maternal grandfather, William J. Clifford, a robust, generous Irishman, hated debt. He paid cash for everything his entire life, including cars, washers and dryers, lawn mowers, you name it.

Consequently, he never owned a home because he never took out a mortgage. Here's how much he hated debt:

Shortly before he died in March, 1981, he asked his daughter, my Aunt Peggy, to bring his old friend Murphy to his hospital room.

Puzzled, my aunt calls Murphy on the phone and tells him Bill Clifford wants to see him. She picks Murphy up at his North St. Louis County home and brings him to St. John's Mercy Hospital.

When he gets there, my grandfather tells him, "Murph, there's a debt we have to settle." Murphy looks at him

William J. Clifford carves up a Thanksgiving turkey, circa 1965.

with tears in his eyes and says, "I know, Willie, it's OK. You don't owe me a thing."

My grandfather gets an exasperated look on his face and replies, "No Murphy. Don't you remember? You owe me $5 bucks and I won't be dyin' on ya until we settle this debt."

He got his $5 and died the next day. That example might seem a bit extreme, but the lesson: Settle your affairs, no matter how small they are.

My grandfather, born 100 years ago this April in 1908, lived in a time and place where a man could live his life simpler and without debt, but that's not really the case today.

Financial matters are complicated, and the more prepared you are the more comfortable you'll be in your golden years.

Call us at Common Sense Elder Law at 1-800-525-0513 and let us start you down to the path to a comfortable retirement. When you're out of money, you're out of options. My experienced staff and I are prepared to take you step-by-step through everything you need to do.

Let us know how we can help you. We're ready.

Rick Gibson