WEALTH MANAGEMENT

"Death is not the end. There remains the litigation over the estate."
Ambrose Bierce

ESTATE PLANNING

It is a widespread misconception that estate planning is only for the very wealthy. In fact, every adult—especially those with children—should do some estate planning regardless of whether their estate is worth $100,000 or $50 million. Unfortunately, an amazing number of competent, well-educated Americans have not even taken the time to create a simple will. This lack of planning is a mistake that can lead to significant taxes, big headaches for heirs as well as assets not going to whom or where they were intended. And if children are minors when their parents die, it can even lead to the state choosing guardians.

"Even among educated, affluent individuals, estate planning seems ominous. They don't want to think about dying, so they avoid addressing an estate plan. It's a shame, because everything you ever worked for your whole life; if you don't have an estate plan, it will pass according to the state's plan," said Peter Mallouk, principal of The Will & Trust Center.

Stephen Harmon, senior trust counsel with Commerce Trust Company, a division of Commerce Bank, cites three basic reasons why an estate plan is important:

- assuring the efficient transfer of assets;
- assuring assets are going where and to whom you want after death;
- avoiding taxes, assuming your estate is valued at more than $2 million.

Quick Estate Planning Checklist:

❑ Make a will	❑ Consider life insurance
❑ Consider a trust	❑ Understand estate taxes
❑ Make healthcare directives	❑ Cover funeral expenses
❑ Make a financial power of attorney	❑ Make final arrangements
❑ Protect your children's property	❑ Protect your business, if you own one
❑ File beneficiary forms	❑ Store your documents

Source: nolo.com

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Elements of an Estate Plan

While each situation is unique, the following elements will make up an individual's estate plan in most cases.

Living Trust: A trust that becomes effective while its creator is still living, typically used to avoid probate.

Will: This legal document is used to declare how a person would like his or her assets distributed after death.

Financial Power of Attorney: A legal document authorizing a specified person to make financial decisions on a person's behalf if he or she is unable.

Healthcare Power of Attorney: A legal document authorizing a specified person to make healthcare decisions on a person's behalf if he or she is unable.

Living Will: A legal document that specifies an individual's decisions regarding medical care in case he or she becomes incapacitated, such as whether or not he or she would want life support.

Transferring Wealth

One of the main purposes of an estate plan is to designate to whom or in the case of a charity, where you would like your assets passed on after death. By taking the time to consider who your beneficiaries would be and creating a proper estate plan, you will ensure that your wishes are carried out rather than leaving these important decisions at the mercy of the state in which you live.

Avoiding Probate

Probate, the legal process of settling a deceased individual's estate, can take several months, cost legal fees and it makes the details of an estate a matter of public record. Most estate planning experts recommend setting up a living trust in order to avoid this process. By transferring assets you own, such as investment accounts, bank accounts, ownership in a business or real estate to a trust they can be passed on to the beneficiaries you designate without going through the probate process.

Most estate planning attorneys agree that the fundamental mistake people make after going through the trouble of creating a living trust is failing to properly transfer their assets by titling them in the name of the trust.

"A trust is like an empty bucket—you have to put your assets in it," said Mallouk. "Many assets will be susceptible to probate if they are not properly re-titled so that they are owned by the trust."

Reducing Estate Taxes

The current threshold for estate taxes is $2 million. In 2009, this will increase to $3.5 million. While The Economic Growth and Tax Relief Reconciliation Act of 2001 has scheduled the estate tax to be phased out in 2010, unless Congress takes further action this reprieve could last only one year. For those doubting their assets add up to $2 million, don't be too quick to assume.

"People are usually surprised when they total up their assets at fair market value," said Harmon. "Once you include the death benefit on any life insurance policies, retirement plan money, investments and a nice home, it's not very hard to get to $2 million."

"You need to take everything into account when determining your estate's worth, because the IRS will," said Katheigh Degen, co-owner of Twin Financial. "This includes ownership in a business and life insurance policies, which some people forget to consider."

With estate taxes reaching as high as 45 percent, they can significantly cut into the value of an estate and therefore what is available to pass on to heirs. In order to minimize these taxes and preserve wealth, experts recommend a variety of strategies. These might include gifting, charitable contributions, establishing a trust, using a credit shelter or by-pass trust.

Reminders

One of the simplest things everyone should do as part of their overall estate planning process is to compile a list of assets and key contact people, such as your financial adviser and estate planning attorney for your heirs—and tell someone where you keep this information. Chris Costello, CEO of The Retirement Planning Group, recommends taking this one step further and using a three-ring binder to keep recent copies of investment account statements, bank account statements, insurance policies and tax returns. He suggests keeping both this notebook and the one containing your estate planning documents in a place that will be easy to find.

Finally, it is critical to seek assistance from an estate planning attorney regarding this complex financial matter.

"The money people would save by doing their own estate planning rather than hiring an attorney will be spent many times over if mistakes are made—to the detriment of beneficiaries as well as leaving a legacy that is a mess," said Harmon.