The 8 Pitfalls of Estate Planning

All estate plans should be reviewed in light of the following 8 estate planning pitfalls.

1. Failure to Make a Proper Will or Living Trust and Revise It Periodically

By failing to prepare a will or living trust, a decedent surrenders the right to distribute his or her property and allows the state to assume that task. A will or living trust (that is, a trust that is created by the donor and takes effect during the donor's lifetime) enables the decedent to control in some measure the distribution of his or her property. After a will or living trust has been prepared, changes in the law require periodic reviews of these documents in order to properly fulfill the estate owner's plans.

2. Lack of Flexibility in Planning

A will or living trust must be drafted with enough flexibility to permit heirs and beneficiaries to meet emergencies or changing needs. Ideally, a will or living trust should take into account not only current family requirements but also future needs. Planning for the future, however, should not override basic necessities. For example, a decedent can provide for a child's college education without permitting proceeds to be diverted for any other purposes. A will or living trust could prevent the family from using the proceeds for any purpose other than college, although the money is desperately needed for food and shelter.

3. Not Enough Liquidity at Death

If an estate plan does not provide enough cash to cover final expenses, valuable assets may have to be sold immediately, frequently at a fraction of their value. Thus, estate shrinkage must be taken into account when preparing an estate plan. One solution is life insurance, which will automatically provide the required liquidity at death. In addition, life insurance proceeds are generally not subject to estate tax.

4. Failure to Plan for Disposal of Business Interest

Careful planning can provide a guaranteed buyer for a business interest at a guaranteed sales price with the assurance that money will be readily available when death occurs. Another option is for heirs to continue the business. Advance planning will provide them the best possible chance of succeeding.

5. Failure to Arrange and Integrate Life Insurance with Other Assets

Life insurance policies should be checked periodically and integrated with other assets, such as Social Security benefits and stocks and bonds, to form a cohesive plan. Policy settlement options should be considered, permitting proceeds to be paid in monthly installments.

6. Failure to Take Advantage of Tax Savings Mechanisms

Estate plans should be reviewed annually to make sure that any tax law changes are reflected in the plan and to take advantage of any new tax savings method. In fact, any properly drafted estate plan will strive for the greatest tax savings possible. Every dollar that escapes tax results in an additional dollar for estate beneficiaries.

7. Failure to Plan for Retirement

Retirement plans and goals must be specifically identified. Unless these plans are known, an estate planner cannot determine whether sufficient funds are available to accommodate retirement desires.

8. Failure to Prepare an Estate Plan and Review It Periodically

This is perhaps the most important category. With proper planning and periodic reviews, no estate planning pitfalls exist. Click here to view the Annual Checklist for Advanced Estate Planning.