



10 Estate Planning Tips to Avoid Inheritance Nightmares





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#One

Unhappy Heirs

Sometimes an individual or a married couple does not want to provide equally for all family members or even exclude a family member from an inheritance. These situations may be ripe for a legal challenge by the disgruntled heir. It is crucial to document the reasons for these decisions and also to document your good health, if appropriate. Any unmanaged expectations now could lead to disasters later.





#Two

Old Documents

When there are significant changes in your life, it is likely that the estate planning documents you previously signed no longer serve your needs. I have seen situations where substantial sums of money were inherited by a person that the deceased person was estranged from. It is important that you update your documents to reflect your current circumstances before it's too late.





#Three

Joint Account Confusion *(usually with a child)*

A parent may include a child as a joint owner of a bank account so the child can assist with the parent's bill-paying. It is important to state in your Last Will and Testament whether that money is intended to transfer to the child upon the parent's death or whether it is to be shared with other children or other persons. When this is not determined ahead of time, lawsuits are sometimes filed to determine who the rightful owner or owners of the account are.





#Four

No Trust Set Up for Minor or Young Adult Children

When children lose parents sooner than anticipated, a minor child (a child less than 18 years of age) or younger adult children can inherit property. It is important to have a Trust for the children so the inherited property can be properly managed. Petitioning the probate court to approve the terms of a court-approved Trust is both an expensive and public process. Always better to already have it in place.





#Five

Failure to Establish Powers of Attorney and Health Care Proxies

These are the very important documents that permit a trusted family member or friend to manage finances and make health-care decisions if you suffer an incapacitating illness or injury. Powers of Attorney are especially important when trying to protect property for a spouse or children. Having these documents now avoids the need to petition the probate court later for appointment of a Guardian (for health-care decisions) or appointment of a Conservator (for financial decision-making authority).





#Six

Failure to Designate Life Insurance and Retirement Funds

Beneficiary designations typically transfer life insurance proceeds after the death of an insured. They also transfer retirement account monies after the death of the owner of the account. They are a very important part of an estate plan and are often overlooked. If a beneficiary designation form has not been completed, the life insurance proceeds or the retirement account must become part of a probate court process, which is unnecessary, time consuming and expensive.





#Seven

Incomplete Beneficiary Designations

Similar to a lack of designation, some people only designate a primary beneficiary and fail to designate a secondary or contingent beneficiary. The purpose of the secondary or contingent beneficiary is to transfer assets to another person or persons if the designated primary beneficiary is also deceased. In a situation where the designated primary beneficiary is deceased and no secondary or contingent beneficiary is designated, the property becomes part of probate estate, which, again is unnecessary, time consuming and expensive.





#Eight

Transfer on Death Accounts

Transfer on Death accounts can be a useful probate avoidance tool. However, if one of the intended beneficiaries dies and he or she was one of multiple beneficiaries, the account may pass only to the surviving beneficiaries instead of the children of the deceased beneficiary. This is often contrary to a client's will or trust. If there are no surviving beneficiaries, the account becomes part of a probate estate. Establishing a Trust is the best way to avoid the probate court process.





#Nine

Unorganized Finances

Occasionally families have difficulty determining the finances a deceased family member owned. This can result in property being discovered years after someone dies, or not at all. It is important to consolidate accounts and have a list of them in a convenient place. Estate planning is a great way to help organize assets.





#Ten

Waiting Too Long to Sign Documents

Sometimes a person waits until his or her health declines or until very late in life to sign estate planning documents. If there is a question about their mental health, this may make the documents susceptible to legal challenge. It is important to sign documents when in good health. If it is anticipated that the person's mental health will be challenged, it is advisable to get a letter from a doctor confirming that the person is capable of understanding and signing legal documents.

Legal challenges to estate planning documents usually result in very expensive litigation. If a court determines that the deceased person was not mentally capable of understanding the documents that he or she signed, the documents will be ruled invalid. In such a circumstance, the decedent's property will pass according to previously signed documents or, if there are not any previous documents, according to the laws of the state the deceased person resided in.





Nick Vontzalides

Attorney

I have been a practicing attorney in Massachusetts for over 30 years. After working with some well-known law firms on the North Shore of Massachusetts, I established the Vontzalides Law Offices in February 2014.

I enjoy practicing in the areas of elder law, estate planning and probate and trust administration because it affords me the opportunity to establish enduring relationships built on mutual respect and trust. I strive to provide personalized service in situations that are most personal to my clients.

Some clients come to me when they want to document their wishes for their estate or the care of their children. Others come to me when they face the stress of an elder needing to pay nursing home expenses.

Regardless of the reason clients seek out my help, I offer friendly and compassionate service, the patience to understand their unique circumstances, and strategic advice to help them over the course of their lifetime.