Top Ten Estate Planning Goof-ups

When beginning to plan for leaving their property to heirs, people are confronted and frightened by the high estate tax rates and rush to utilize sophisticated estate planning techniques to avoid them. Yet, there are some simple moves that can frustrate these elaborate plans and are easily avoided. Here are some of the common mistakes to watch out for.

(1)Not Funding Your Living Trust: Many individuals have attempted to install a modern estate plan and use a living trust. Yet, too many fail to transfer the necessary property to the trust, which is like having a conductor without an orchestra.

(2)Too Much JTWROS Property: Titling assets under joint-tenancy-with-right-of-survivorship does avoid probate, yet does not avoid estate taxes. Further, improper titling can frustrate an estate plan because property titled JTWROS goes to the surviving joint tenant regardless of what a will or trust says.

(3)Leaving Too Many Assets to a Surviving Spouse: Leaving all your property to your spouse does avoid estate taxes at the first death due to the unlimited marital deduction. However, such a plan wastes the first-to-die spouse's applicable exclusion amount (previously called the "unified credit"). It may also often be better to pay some estate taxes at the first death at lower marginal rates.

(4)Not Equalizing Assets Through Gifts Between Spouses: This is another example of improper titling and wasting the applicable exclusion amount. Having all property titled in one spouse's name looks silly when the non-titled spouse dies first and does not pass on any property under his/her credit.

(5)Not Having a Will: Do we really need to say more? Probate property of the decedent will pass under the state intestacy laws at possible increased costs. Personal wishes, whether written or oral, will most likely not be followed in the absence of a will.

(6)Improper Ownership of Life Insurance: Most policies are owned by the insured, payable to the insured's estate or survivors and therefore are included in the owner's taxable estate. Policy owners should consider giving policies directly to the beneficiaries or transferring them to an irrevocable trust to avoid a large estate tax bite.

(7)Being Donor & Custodian of a UGMA/UTMA Account: Creating and contributing to a UGMA/UTMA account of which you are the custodian will cause the account to be includible in your estate and possibly subject to painful estate taxes.

(8)Not Knowing Where All the "Stuff" Is: A scattered estate plan by a secretive decedent may cause some assets to be left uncollected, undistributed and even lost.

(9)Naming the Wrong Executor: The tasks facing an executor are often formidable and demanding in all but simple estates. Spouses and close family relatives are under enough burdens. A professional or trust company is often a better choice.

(10)Not Periodically Updating an Estate Plan: People don't like to think about dying and therefore want to set up an estate plan and be done with it. However, many economic, health and family changes require revising your estate plan. It's best to work with an experienced financial planner who can help make the necessary modifications.

Understanding and avoiding these gaffes can make sure that your wishes can be fulfilled and minimize the tax bite for your heirs. Be sure to work with an experienced financial planner or other professional to help you achieve your estate planning goals.

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