The Top 9 Biggest Estate Planning Mistakes People Make

(And How to Avoid Them!)

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INTRODUCTION

It's a terrible tragedy to see people work hard, scrape and save their whole lives, then just throw away their money - - and their family's future - - when they die.

Unfortunately, in over 18 years as an estate planning attorney, I have seen this occur all too often.

How can this happen to someone who diligently watches his or her financial affairs and successfully builds a good size estate?

It's often just plain lack of knowledge. Think about it…most of our knowledge is acquired through experience. But, few of us have yet to experience the consequences of death (unless someone close to you has passed away and you've been involved in handling his or her estate).

Because of certain common misconceptions about estate planning, many people unwittingly commit some terrible mistakes that later cause tremendous grief for them and their family.

Let me share some of these mistakes with you - - the ones I consider "The Top 9" - - in the hope that you will *not* repeat them!

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MISTAKE #1:

"I Don't Need a Living Trust."

There are many estate planning options available to you other than a Living Trust. These include a legal document known as a Will, ways of holding title (like joint tenancy and community property with rights of survivorship), and various beneficiary accounts (like IRAs and certain bank deposits which name a person to receive them at your death).

However, whether you're single, windowed, divorced, or a married or unmarried couple, a Living Trust is the *only* estate planning device that can achieve *all* of the following objectives:

- Distribution of your hard-earned assets to the people *you* choose (not leaving it up to a Court or some other third-party to decide).

- Immediate management of your affairs should you become ill or disabled - - by the person *you* choose - - without any Court interference (avoiding a potentially expensive and lengthy "Conservatorship").

- Management of your intended heirs' inheritance if they are too young, inexperienced, elderly or otherwise unable to manage money on their own.

- Avoidance of the delays, headaches and considerable expenses of death Probate. If you don't have a Living Trust, this Court procedure may take over a year and cost your family tens of thousands of dollars - - even if you only have a relatively small estate!

- Reduction or elimination of Estate Taxes, if you are married. A Living Trust may save your family tens or hundreds of thousands of dollars (or more) in Estate Taxes!

- Added divorce protection, if you are now single, live in a community property state (like California) and should later marry. And added "separation" protection, if you are single, have a "live-in" partner now or in the future, but don't marry. Plus protection against property claims of a future spouse's or live-in partner's heirs, if your spouse or partner should

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die before you. Protection of your family's inheritance after you're gone - - from their spouse's divorce claims, from lawsuits, creditors or other "fortune hunters", from loss of government benefits, and from another potential Estate Tax when they die and pass it down to the next generation.

Whether you're single, widowed, divorced, married or an unmarried couple, you likely want to achieve all these objectives.

That's why, if you own any real estate, even just your home (regardless of your equity), or your total assets exceed about $200,000, you should probably get a Living Trust. It's a "no-brainer" decision.

The real question is what *kind* of Living Trust you'll get (or you may already have)!

MISTAKE #2:

"All Living Trusts Are the Same."

A lot of people think that a Living Trust is just a form that can be pulled off a bookshelf or printed out of a computer. Or that a Living Trust done online using the internet, or prepared by a non-attorney paralegal, or by an inexperienced attorney or a bargain-priced attorney "trust mill". These Living Trusts are not the same as one custom-fit and custom-drafted by an experienced and skilled estate planning attorney. The shocking reality is that all Living Trusts are NOT created equal!

Think about it. Are all cars built the same, with the same comfort and safety features? Neither are all Living Trust "vehicles". I could go on and on here about all of the technical deficiencies of poorly-drafted Living Trusts, but I'll touch upon many of these critical issues as I address some other big mistakes and misconceptions below, like…

MISTAKE #3:

"Once I Have a Living Trust, My Trustee Will Be Able to

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Handle Everything Immediately for Me If I Become Ill or Disabled."

Certainly, that's what a well-drafted Living Trust plan is *supposed* to do.

However, not only must your Living Trust have the proper provisions, but your Living Trust must also be properly supported by some additional legal documents and tools.

First, your Living Trust should have language that allows your next successor Trustee, that you named to handle your financial affairs, to act right away when you're ill or disabled - - *without first going to Court*. You want to avoid the considerable delays and expenses of a "Conservatorship" when important financial matters, such as paying bills and managing assets, need to be taken over quickly. Unfortunately, with many Living Trusts, you may have to first be pronounced "incapacitated" or "incompetent" by a Court of law, exactly what we're trying to avoid.

One way to avoid this - - that we've time-tested and prefer - - is for your Trust to require two doctor letters before the next Trustee can step in. I mean two doctors licensed to practice, who have actually examined you and stated in writing that, in their professional opinion, you're no longer able to handle your own affairs. Not "WebMD" or someone else who is not even a doctor or who hasn't actually examined you. We've found using two disinterested third parties like this is better than relying on the judgment of your Trustee or family members or friends to determine your incapacity, because they may have an interest in your estate… or should I say, conflict of interest, and would like to take over control of your assets!

(If you're uneasy with the thought that two doctors could declare you "incompetent" and let your successor Trustee take over your finances, keep in mind we do build in a "fail-safe". If two other doctors of your choosing at any time declare you *are* competent, you stay in charge or are placed back into control as Trustee of your Trust.)

Second, your Living Trust must have special language pertaining to Medicaid (known in California as "Medi-Cal"). This may be a hugely important government benefit to help you and your family someday, if you require long-term nursing care. (You may not realize it, but once you're over age 70, there's a better than 60% chance you will require this care - - and the cost can be staggering, in the hundreds

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of thousands of dollars, and even wipe you out!) Most estate planning attorneys aren't knowledgeable or skilled in planning for Medi-Cal benefits and fail to include the right terms in your Living Trust so you may get it someday if you need it; actually, I've seen many trusts where the language actually prevents you from ever getting these critical benefits!

Third, you need a properly drafted Durable Power of Attorney for Property. This will allow your successor Trustee access to your assets (including your online banking and investment accounts, e-mail, photos, social media, etc.) that may not be titled into your Living Trust (we'll discuss this in more detail in Mistake #4). This Durable Power of Attorney also enables your successor Trustee to handle certain planning and decisions not covered by your Trust, such as enter certain contracts (like for care in your home or at a nursing facility), do planning to qualify you for government benefits if you need them (like Social Security or Medi-Cal nursing care benefits) or planning to reduce your Estate Taxes (like making last minute gifts to your Trust beneficiaries while you're still living). The typical statutory "form" Power of Attorney document that many attorneys use does not include those vitally important items.

Fourth, you should have a supporting document known in California as an "Advance Health Care Directive" and in other states as a "Health Care Proxy". Formerly, there were two health-related documents in California, known as a "Durable Power of Attorney for Health Care" and a "Living Will"; these have now been combined into this one document. This Advance Health Care Directive covers medical decisions that may need to be made for you, if you can't make them yourself. These aren't covered by your Living Trust, which only deals with your assets. The Directive covers decisions like operations, nursing care, feeding and hydration, all the way up to the final "pull-the-plug" decision (that, unfortunately, due to modern medicine, many people and their families will face). You should have the newest version of this Advance Health Care Directive, because it's this document the hospital administrators are familiar with. Anything else may cause the administrator to kick things up to the legal department, causing delays when you critically need medical decisions made for you immediately.

Fifth, you also need a document known as a "HIPAA Authorization" to support your Trust, and your Durable Power of Attorney and Advance Health Care Directive. This allows your decision makers immediate access to your otherwise confidential, private medical information. They'll need that to get the two doctors' letters the Successor Trustee of your Living Trust and agent under your Power of Attorney will

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need to step in and act, and to make the most informed medical decisions under your Directive. But watch out - - just a federal government HIPAA form may not be good in certain states. For example, in California, a law known as the "Confidentiality of Medical Information Act" imposes *additional requirements* on the HIPAA Authorization in order for it to be valid!

Are you starting to see how important it is that the little "details" of your estate plan are correctly handled in your documents if you're ill or disabled?

My point here is this. If you think the Living Trust you have (or the one you plan to get) will automatically take care of you immediately if you're ill or disabled and can't make decisions for yourself - - when you most need your plan to work properly - - think again! It's all about the "details" being done right.

Which leads me to the next big estate planning misconception people have…

MISTAKE #4:

"I Have a Living Trust, So My Family Will Avoid Probate."

The harsh fact is: <u>all Living Trusts do NOT avoid the terrible expenses, delays and publicity of a court procedure known as probate</u>.

Are you shocked? Confused? You're not the only one. Many Living Trust preparers don't realize this either, because they haven't handled many Trusts after clients have become disabled or died.

You see, although you may have signed your Living Trust, there is another step that must be accomplished properly and completely in order for your assets to avoid a costly, disastrous Probate.

<u>The titles (or in some cases, beneficiaries) to each of your assets must be properly placed into the name of your Living Trust</u>. Assets left outside of your Living Trust may go through Probate. In California, if the total value of assets outside your Living Trust exceeds $150,000, you may have a Probate. And even if your estate value is less but you have just one piece of real estate with a gross value over $50,000 that's not in your Trust (basically anything other than a piece of dirt in the desert!), you may still have a Probate.

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Keep in mind that there are *two forms of Probate*, where you and your assets can be tied up in a Court. One can occur when you're living but ill or disabled, known as a "Conservatorship". And another can happen when you're gone, known as a "Death Probate". The purpose of a Living Trust is to avoid both, but it may *not* if your assets aren't properly transferred to it.

In fact, if you're married, the failure to transfer assets to your Living Trust could cause two Death Probates, when normally in California you only have one Probate at the second death. (Plus, the failure to transfer assets to the Living Trust may cause a married couple significant, unnecessary Estate Taxes!).

Some people think that merely attaching a list of your assets to your Living Trust is sufficient to transfer them into it. The unfortunate truth is this just doesn't work without going to Court.

Other people think that the Will they got with their Living Trust - - commonly referred to as a "Pourover Will" - - avoids Probate of those assets left out of the Living Trust when you die. It's true that this Pourover Will catches those assets left outside the Trust and makes sure that they are placed into the Trust and distributed according to its terms. However, assets passing through a Will must typically go through Probate Court first!

If you set up a Living Trust and don't get your assets into it, you've only gotten half (or less) of the job done. At our firm, we assist our clients with placing their assets into their Living Trust - - so they *know* their families *will* avoid Probate. Here's how…

At the same time as you sign your Trust, we prepare legal documents (deeds) to transfer in your real estate. We also assist you in transferring all of your non-real estate assets. With our guidance, our clients can typically get all of their assets into their Living Trust in a matter of days and then go onto "auto pilot" with the peace of mind that it's taken care of.

But we don't stop there, like many others who prepare Trusts. Just because you get your assets into the Trust at the time you set it up isn't enough to guarantee you won't wind up in Probate Court.

We also help make sure your *later acquired* assets get into your Trust. We give you

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an "ID Card" to keep in your wallet. The card that has on it the exact legal name and date of your Living Trust and exactly how titles should be held. So, if you open a bank deposit, or buy a new mutual fund or piece of real estate (or refinance a mortgage and take the deed out of your Living Trust to do so), you can simply pull out this ID Card and make sure that the new asset gets titled into your Living Trust from the very start (or the refi deed gets back in).

Plus, one other key thing we do for you is we provide a free attorney check-up meeting every three years. (Others may claim that they will provide this service, but how many years have they been around with a track record of actually doing it? We have been in business for 18 years!)

Here's why this 3-year free check-up meeting is so important - - and it has nothing to do with changes in your wishes, the laws or in planning techniques (we'll cover these more in Mistake #8). By checking in with you every 3 years, we also check that all of your assets are properly in your Living Trust so you'll *know* you will avoid Probate. If we catch something improperly held outside of your Living Trust, we will help you get it in right then and there. That's why we can say that very few of our clients have ever gone through the horrors of Probate - - "coincidentally" those were mostly clients who failed to come in for their 3-year review meeting!

Isn't this type of support and follow-up maintenance the kind of attention and service that you and your loved ones deserve when you buy a Living Trust vehicle?

MISTAKE #5:

"When I Pass Away, I'm Fine with My Beneficiaries Just Pulling Out Their Inheritance from My Living Trust and Handling It On Their Own."

Over the years, our firm has helped with over 4,000 trust administrations *after* clients have passed away. One of the things we have noticed is that just avoiding Probate and getting your assets to your beneficiaries isn't enough anymore!

Your Living Trust, the centerpiece of most all estate plans, should have proper provisions in it to protect your beneficiaries' inheritance, when it is to be distributed from the Trust.

Here's an important point to keep in mind. *Your beneficiaries will receive lots more*

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cash than you have. You may not consider yourself "wealthy" because you don't have a lot of cash or liquid assets, or because they're locked up in places like your home equity, IRAs or retirement plans. But when you die, *everything* you own may be turned into cash - - your real estate sold, your IRAs and retirement plans withdrawn, your life insurance matured. Beneficiaries may inherit a much, much bigger pile of cash than you have now. That's the problem.

First off, some beneficiaries clearly should have their inheritances held in trust, and managed by a third party who either acts alone as Trustee or as Co-Trustee with the beneficiary. For example, beneficiaries who are too young to properly handle significant assets should receive a "staged distribution" over a period of years or as they reach certain ages or attain other milestones, such as higher education degrees, or as they need it for health care or other emergencies. (You may not think that you have any beneficiaries who are too young to handle their inheritance, but most estate plans provide that if one of your primary beneficiaries is deceased, his or her share may pass to his or her children who are too young!)

Elderly, ill, drug or alcohol addicted persons, or those easily influenced by others may need what we call a "Lifetime Trust".

Those with even more significant financial management issues - - you know, the ones who if they get a buck they'll spend it! - - should likely have the greater protection of what we call a "Spendthrift Trust".

Those who are currently receiving needs-based government benefits, such as Medi-Cal, supplemental or disability income, or who might otherwise lose their benefits (and worse yet, forced to use their inheritance to repay all the benefits they previously received), should have their inheritance held in a "Special Needs Trust".

Now, you may be thinking, "My current estate plan already provides these forms of protection for my beneficiaries." But, does your plan also have the ability to adapt to their changed circumstances or needs *after* you're disabled or gone?

For example, if someone too young later proves that he or she can handle money well, the Trustee should be able to give some or all of the assets to him or her earlier. If a drug or alcohol addicted person no longer has the addiction or goes into rehab and continues to test "clean", you may want your Trustee to be able to start distributing some to him or her earlier (which could be a powerful incentive for

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positively changing their behavior!). The spendthrift person who later shows he or she can prudently manage money should be able to receive some or all of his or her inheritance instead of having it held in trust for their lifetime. And someone now getting government benefits may later find that the benefit is no longer available or he or she no longer needs it, and should be able to take over control of his or her own assets, if appropriate.

Our Living Trust adapts itself to these changes, just like you would if you were still living and the Trustee in charge. Most Living Trusts do *not* have these kinds of "powers to adapt" after you're disabled or gone. As a result, with those other Trusts the Trustee may have to go into Court - - exactly the delays, and expenses and publicity you want to avoid - - and the Court may refuse to make the desired changes!

But the really big point that we want to make here is this. **Even those beneficiaries who appear capable of managing money on their own now (or will someday when it is distributed over time to them) should always have their inheritance held in trust too!**

This is because, when people receive an inheritance directly out of your Living Trust and into their names, their inheritance is needlessly exposed to the claims of spouses in a divorce, creditors, lawsuits, loss of government benefits in the future should they need them, and a second estate tax when they pass away and hand down their inheritance to the next generation!

In other words, what are called "outright" distributions from your Living Trust - - immediately going out of the Trust right to your beneficiaries - - should hardly ever occur. There is a better way to protect your loved ones' inheritance when they are to receive it, in a way they can access and control it and yet it's not exposed to these problems.

This better way is for each beneficiary's distribution to go into his or her own "Personal Asset Trust^{SM}" which he or she controls. Let me give you a brief snapshot of how this works.

If I am to receive one-third of your estate, one-third of your Living Trust will be divided off into a new Personal Asset Trust^{SM} (or "PAT") for me that will continue on. I am not only the beneficiary, I may also be the initial Trustee in control of how my

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moneys are invested, how they're used by me and others, and even who gets them when I pass away - - basically the same rights I would have had if the inheritance had come out of Trust directly into my name. But the distinction is that I don't own the assets, the PAT does. The legal "walls" built around this PAT provide greatly enhanced protection against my spouse, divorce, creditors, lawsuits, loss of government benefits and another estate tax when I pass away.

No do-it-yourself, internet or bargain-priced Living Trusts I've ever seen contain these critically protective Personal Asset Trust^{SM} provisions for your beneficiaries. Some attorneys claim to have something like this, but merely use a garden-variety "beneficiary controlled trust" also referred to as a "discretionary, generation skipping trust". If that's all I as the beneficiary have, attacking third parties could get a legal judgment or Court order against me, and force me, as the Trustee of my trust, to "break the trust" and distribute my inheritance to them.

The Personal Asset Trust^{SM} provides a much greater level of protection by permitting me to bring in a Co-Trustee to sign off on all distributions or, if I only have a temporary problem like a divorce or lawsuit, I can be even more protected by bringing in a "personal bodyguard" (a person unrelated to me by blood, such as a financial advisor, accountant, attorney or friend, also known as a "Trust Protector"). This Trust Protector may lock down my Personal Asset Trust^{SM} "vault" until the threat against me goes away or is resolved and then return the Trustee "key" back to me.

These Personal Asset Trust^{SM} provisions have been tested and proven to work in "Asset Protection Law" for over 100 years! We didn't invent them. We just adapted their use and carefully fit them into the Living Trust, in a unique way that took us many years of research, drafting, review by other experts and testing.

We have found that very few Living Trusts drawn by others provide this high level of Personal Asset Trust^{SM} protection for your beneficiaries' inheritance. Keep in mind this has been only a brief discussion of the Personal Asset Trust^{SM}.

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MISTAKE #6:

"My Estate is Too Small to Worry About Estate Taxes."

We haven't forgotten about Estate Taxes, although many people do.

Federal Estate Taxes represent potentially the most devastating "bite" in our tax system. It may range from 40% to 55% (depending on where you think the law is heading) and take one-third to almost half of everything you've worked a lifetime to accumulate - - after you already paid income and capital gains taxes, Social Security taxes and sales taxes during your lifetime!

First, people think their Living Trust will avoid *both* Probate and Estate Taxes. One has nothing to do with the other. The most a Living Trust can protect for a single person is the same Estate Tax "exemption" amount he or she would be entitled to without the Living Trust. And the most a Living Trust can protect for a married couple is two exemption amounts (which they can do with special "A-B" provisions built into the Trust or if they take advantage of "portability" rules). Beyond those exemption amounts (discussed further below), a Living Trust offers no Estate Tax protection.

Second, some people think their estate simply isn't big enough to incur Estate Taxes. However, most people underestimate the true size of their estate. It includes the market value of everything you own - - your home, other real estate, cash accounts, investments, annuities, retirement plan benefits (both those from your employer and your personal IRAs), your life insurance (the full, matured death benefit, not what it's worth today), your cars and all that personal stuff around your home. If you're a homeowner in the Southern California area, when you add up all of these assets, less your liabilities, you're probably worth a minimum of anywhere from $1 to $3 million, and may be worth much more!

Regardless of the current size of your estate, you may still be underestimating the potential for Estate Taxes. The value that counts for estate tax is not the value today, but the value at the date of your death (for most married couples, the date when the second spouse dies). If your estate only grows at 7% a year - - from income that you just rollover in your CDs, mutual funds, annuities, retirement accounts, and inflation in the value of your real estate, and just good investing - - you may not realize that your estate will double in size approximately every 10

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years! So, if you have a $3 million estate today, it may be worth $6 million in 10 years and $12 million in another 10 years after that. It's that future value, at your death, that may cause your loved ones to be estate taxed.

The third popular misconception many people have is that Estate Taxes have gone away. It's true that the exemption amount from Estate Taxes rose dramatically from $1 million in 2003 to $5 million in 2010 and has since grown to over $12 million, as of 2023 (and a married couple may take advantage of twice that amount). However, Congress can reduce that exemption any time they want and the only exemption amount that counts is the one in the law when you die (unless you use it now, as described below).

We can argue all you want whether the Estate Tax exemption will go up or down in the future, but consider these facts. We've got the greatest deficits in history. We have a Social Security system starting to fail. We may have more Wall Street bailouts or other new government plans to pay for. Congress may decide to raise taxes elsewhere (like Estate Taxes) to comply with the "balanced budget" law.

In other words, simply ignoring Estate Tax planning could be a disaster for your loved ones. That's not only because the Estate Tax rate could be almost 50% of the amount above the exemption. The real cost to your loved ones may be much, much more.

The Estate Tax is due in cash in 9 months after you pass away (if you're married, typically after the surviving spouse passes away). The IRS won't accept a deed or stock certificate as payment, it only accepts cash. The problem that often arises is that valuable family assets are forced to be sold quickly at "fire sale" prices - - just to pay the IRS its Estate Taxes in cash!

Furthermore, consider that if the asset sold is a rental property or business that you intended to continue to produce family income and grow your family's future wealth, it's now gone!

There are basically two ways to deal with the potential estate tax on your family wealth. First, you can carefully "reduce" the value of your taxable estate. Some of the strategies include making yearly small "annual exclusion" cash gifts directly to beneficiaries, then larger cash or property gifts (that utilize your available Estate Tax exemption now) to different types of "Irrevocable" Trusts (including "GRATs" and

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"QPRTs"), or business entities (like "LLCs" and "FLPs"). These more advanced-level strategies require a skilled and knowledgeable estate planner. You may still control and have access to your assets, while also reducing their Estate Tax value. These advanced strategies may also protect your assets from lawsuits and other third party predators during your lifetime, as well as reduce your income taxes. We, along with outside specialists we work with, can help.

The second way is through life insurance. (If you hate life insurance or don't think you can get it at a reasonable price, keep reading, as we will address these issues in a little bit.)

The insurance proceeds can be used to pay Estate Taxes, so your loved ones can receive your other assets as intended, free and clear. Or the insurance may provide more liquid funds at your death, to help continue to build your family's wealth. In most cases, it's best to have an irrevocable Life Insurance Trust own any policies set aside for estate tax payment or estate building purposes (and for the Trust to also be the beneficiary).

No matter how many logical reasons I put in front of people for having life insurance, I often still deal with two other objections.

The first one is, "I hate paying for life insurance!" Okay, then how about having Uncle Sam help pay for it? There are ways to make your premiums tax deductible, such as through a pension plan for an unincorporated "Schedule C" business or for a corporation, "LLC" or "FLP".

The other objection I often get is, "What if I buy life insurance and don't need or want it later?" That's always a possibility. A lot of people think that they will lose their entire investment, except for possibly some cash surrender value. That's not necessarily the case. You may be able to later convert the insurance to a "paid up" policy with a lower death benefit, thereby maintaining the value of the investment you've already made. But, whatever you do, don't let the policy lapse, surrender it or even convert it to a paid up policy before considering a much better option - - selling it!

There is a new market now where major institutional investors purchase life insurance policies, and you may receive a *big* return on your investment, particularly if you are over the age of 75 when you sell your policy. That's because the buyer

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figures they only have a small amount of premiums yet to pay over your remaining life expectancy, but will soon get a large death benefit. The buyer will typically pay you a significant portion of the death benefit in cash now, while you're living!

In other words, there really aren't any good reasons not to at least check out the proper use of life insurance as a part of your overall family wealth planning. Don't immediately assume you can't get it because of your age or health history; you may be pleasantly surprised!

Maybe you're now thinking, "I've done most everything you've told me in this Report." Well, perhaps, but don't fall into the next mistake…

MISTAKE #7:

"I've Got a Living Trust (Plus the Other More Advanced Planning You Recommended), So I'm Done!"

It almost goes without saying that, "The only constant in life is change." Yet, most people believe that once they've established their Living Trust and have setup other more advanced estate planning, that they're done and there's nothing more to ever do.

Unfortunately, this thinking is perpetuated by a lot of estate planners who give their clients the impression that creating an estate plan is a one-time deal and planners who never follow up later with their clients, so their clients just think that everything is still okay.

This may be one of the biggest estate planning mistakes you ever make!

First, laws change over time. For example, has your Living Trust been brought up to date with the newest estate tax, income tax, and capital gains tax laws? Are your Powers of Attorney and Health Care documents up-to-date with the pertinent state laws?

Second, new planning techniques emerge over time. Technology improves just as in any other business or professional fields. For example, does your Living Trust

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include the Personal Asset Trust^{SM} protection for your beneficiaries' inheritance - - against divorce, lawsuits, creditors, the loss of government benefits and another estate tax when it passes down to the next generation?

Does your Living Trust include provisions which allow the Trustee the flexibility to adapt to the changed needs of beneficiaries *after* you're gone? For example, a beneficiary for whom you set up a long-term trust may, after you're gone, demonstrate the ability to properly manage assets at a younger age and should have the trust terminated early either in part or in whole. Or, a beneficiary with drug or alcohol problems may later prove to be "clean" for an extended period of time and can be distributed part of his or her trust as a reward and incentive for staying clean. A spendthrift trust beneficiary may later become very responsible and capable of managing his or her own money. A beneficiary receiving government benefits may no longer need them after you're gone or the benefits may no longer be available, in which case you wouldn't want to continue to tie up his or her inheritance in a very restrictive special needs trust.

Third, you need to periodically review your estate plan because <u>your relationships with people or your wishes may change.</u> Do you still have the right Trustees named? Have some of them passed away, demonstrated that they are not as capable of acting as you thought, moved away or simply don't have the same relationship with you anymore? Might there be other individuals who you did not originally name as Trustee because they were too young or inexperienced, but are now capable of acting? And, what about your relationships with your beneficiaries? Does the distribution pattern you originally set up still reflect your wishes in terms of the amount you want to go to various people? Do you now want specific assets, like a property one beneficiary lives on, to go to that particular beneficiary? Are there others, such as grandchildren born after your Trust was signed, whom you might now want to add to receive a share?

Fourth, <u>your beneficiaries' situations and needs may have changed since you set up your Trust.</u> Is the right *manner* of distribution still tailored to each of your beneficiaries' current situations and needs? Should their inheritance be kept in trust and, if so, what kind of trust, and who should be in charge and for how long?

You can't simply buy a car, drive it off the lot and never service it - - and the same is true of your Living Trust "vehicle"!

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If you haven't reviewed your Living Trust (and other estate planning documents) within the last 3 years, get to a qualified estate planning attorney right away! Our clients are entitled to - - and are strongly reminded by us to - - <u>come in for a free attorney review every 3 years.</u>

What good is a well-drafted estate plan that later becomes out-of-date or even obsolete by the time it comes to use it?

MISTAKE #8:

"All Estate Planners Are the Same, So I Can Just Shop for the Cheapest."

There's nothing wrong with shopping around for the best price when making an important consumer buying decision.

But be sure that you are comparing "apples with apples" when shopping for an estate planner.

You have to be careful about who you have prepare your Living Trust. <u>First of all, it should be done by a Law Firm</u>, because if it isn't, you're probably asking for trouble right away! (In fact, in many states, it is illegal for anyone other than an attorney or his or her firm to prepare a Living Trust!)

Be especially careful about those internet sites or other non-attorneys. Keep in mind the critical importance of your estate plan, to protect your lifetime's assets. If you need critical surgery, would you want the nurse - - or worse yet, the orderly - - to do it?

Even if you do seek an attorney to create your estate plan, watch out. Anyone fresh out of law school, or who has recently moved from another area of the law (such as litigation) to estate planning, can open up an office in an executive suite, set up an impressive website, purchase an "artificial intelligence" document production system and have their family and friends post lots of glowing online reviews. But, what experience and expertise does the attorney really have?

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Here are some of the key items you need to compare when selecting your estate planner:

- **Does your attorney devote his/her practice entirely to estate planning and related matters or just dabble in estate planning matters?**

- **How many years of experience do they have and how many estate plans have they designed and written?**

- **How many have they implemented after clients have passed?**

But here, I want to issue another important warning: Watch out for those "bargain" priced, attorney drafted Living Trusts!

You may have noticed certain advertisements that offer Living Trusts at cut rates. This may sound great, but please, *don't be pennywise and pound foolish when it comes to protecting your entire lifetime's assets!* Bargain-priced Trusts are often offered as a come-on by companies selling annuities or insurance. These "bargain" Trusts can cause more problems than if you had no Living Trust at all! (We know, because we are regularly called upon to fix them!)

Think about it…would you select a doctor, who your life depends on, simply by searching the internet and choosing the cheapest? Then, why would you do that when it comes to preserving the financial assets that you've worked so hard to accumulate over your lifetime and that your family's future may depend on?

Hopefully, this Report has convinced you that *Experience* and *Expertise* actually still count (a lot!) in the computer and internet age.

Well, I don't want to go on and on about us, because there's still one more important mistake you may make - - maybe the biggest mistake… - - left to address…

MISTAKE #9:

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"I'll Get Around to It Someday!"

Hopefully, by now, I've already convinced you of the need to set up a proper estate plan (if you don't have one) or to review the one you have already. Unfortunately, many people never get around to doing what they should, in which case you have essentially chosen to make one or more of the terrible mistakes I've talked about.

BEWARE: Procrastination is the "Silent Killer" of estates!

People come up with all kinds of great and seemingly logical reasons for not moving ahead with properly completing or updating their estate plan.

"I don't have the time right now." (When will you?)

"I want to research and understand all of this before I get started." (If you're sick, do you put off seeing the doctor until you've read every medical journal related to your problem, assuming you even know what your problem is?)

"My existing Living Trust plan is just fine." Are you sure? Maybe you're sitting on a ticking time bomb and don't even know it! (And when you do, it will be too late!)

"I'm not sure about the terms I want, like who I want to be my Trustee, beneficiary, etc." (Estate planning attorneys are sometimes referred to as "counselors at law", which in fact is a much better description of how we can assist you in making these types of important estate planning decisions so the right provisions go into your documents.)

"It will cost too much." (Many estate planning attorneys, like us, will offer you a free initial consultation, at the conclusion of which they will quote you a fixed fee depending on the type of work that needs to be done. In any event, I can assure you here that the fee for proper estate planning will be significantly less than the cost to you and your loved ones of doing nothing!)

Hopefully this Report has moved you toward action and you'll make an appointment with a qualified estate planning attorney *right away!*

Then, you can enjoy the peace of mind that comes with knowing your responsibilities to others have been taken care of… and you can concentrate on

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living!

Happy estate planning!

Lisa S. Golshani

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