

TOP TEN EXCUSES USED TO AVOID ESTATE PLANNING

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The greatest threat to our heirs is not the IRS. It is our own tendency to procrastinate. All too often, individuals and families go through unnecessary heartache and enormous financial loss due to a simple lack of estate planning. Many people die with no estate plan at all. They leave their heirs owing substantial taxes and, further, they create an intestacy - a situation where their property passes to their heirs by state statute which may be completely at odds with their wishes.

Proper estate planning can make a world of difference. A well-planned estate permits assets to be passed to the next generation or to other family members without liquidating large portions of the estate to pay costs and taxes. It is possible that all the assets an individual worked hard to build over a lifetime can be passed to the intended heirs.

Yet, the obstacle to planning one's estate is the inertia that can prevent the process from even getting started. The following are Thomason and Hessmer's "Top Ten List" of excuses and our responses.

#10 "I don't want to pay an attorney all that money. Estate planning is too expensive."

Contrary to that belief, estate planning always costs a minuscule amount in comparison to the very large costs of having an inadequate plan or no plan at all. Correct planning can save thousands of dollars which might otherwise be payable to the IRS based on rates that can reach 50% of all your assets. You may also be able to avoid the state probate process, which can cost thousands in fees and delay the distribution of assets to heirs.

#9 "There are too many choices of plans. It is all so confusing and I don't know how I want my estate to be distributed."

There are difficult choices to make regarding any type of planning in your life. The same applies to estate planning. Postponing choices regarding the type of plan or how the estate will be left to heirs is

not the answer. If you do not make these choices, the state through its intestacy laws will make choices for you. Disposition of your estate under state laws may result in distributing your assets to unintended heirs.

#8 "My spouse and I can't agree on any of this. We'll call you once we make up our minds."

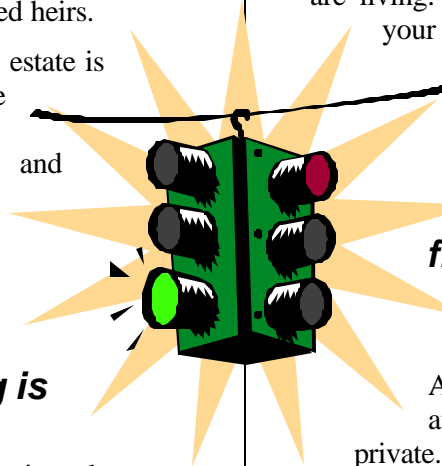
Although the choices are difficult and the issues sometimes delicate, a stalemate can only exacerbate the problem and possibly cost your family substantial sums. After one spouse dies, the surviving spouse can no longer take advantage of tax strategies that are available when both spouses are living. Additionally, if you should die first, your spouse is left in control of everything, without any written guidance or instructions.

#7 "I do not like the idea of discussing my finances and my private family matters with an attorney."

Any matters discussed with your attorney are strictly confidential and private. Contrary to popular press and perception, attorneys zealously guard their client's privacy and work in the client's best interest. Withholding important information from your attorney regarding your family or financial situation is counterproductive and can cost your family unnecessary taxes and create unnecessary problems.

#6 "I don't like to think about death or long term incapacity."

The most compelling reason to complete the estate planning process is to protect yourself and your family in the event of unforeseen lifetime emergencies and to make appropriate provisions upon your death. There is immediate peace of mind in knowing that you have provided for all contingencies and protected your family.



#5 “I do not have any idea whom I would want to name as my trustee, or executor, or guardian for my children.”

While these choices may be particularly difficult, if you do not address them, the state will name them for you after you die. You essentially give up the right to choose and allow an unknown person to make these decisions.

#4 “I have a will that I executed in 1975 that I drew up myself from a “do it yourself” estate planning book. I don’t need to do any further planning.”

Anyone who has an estate plan should sit down with an attorney every three to five years to review the plan and update it as necessary. An old plan can be just as ineffective as no plan at all due to changes in tax laws or your personal situation. The belief that your existing plan is “good enough” often denies the reality that the plan may no longer adequately deal with the issues you sought to address. While self-made estate plans can be valid, time and again they do not address the very issues that were uppermost in your mind. None of us would consider performing surgery on ourselves - similarly, it is unwise to do estate planning without consulting a qualified attorney who specializes in estate planning issues.

#3 “We don’t need to do any planning. I hold everything in joint ownership with my spouse (or son, daughter, niece, nephew).”

Joint ownership is a convenient way of holding property but often lulls individuals into delaying or not addressing their estate planning. Not only does this thinking delay the process, but there are many unseen pitfalls in joint property ownership. For instance, substantial taxes may be owed when the second spouse dies. Bank accounts held jointly with a son, daughter, nephew or niece might be withdrawn by them without your permission. Further, the property may be subjected to judgments or creditors’ claims against your son, daughter, nephew or niece. It is far better to complete your planning and title your property in accordance with the plan than to expose yourself and your family to unforeseen risks and taxes.

#2 “I don’t really have an estate and probably don’t need to do any planning.”

Surprisingly, the average person has a more substantial estate than he or she realizes. Your estate includes your house, car, personal property, bank accounts, retirement plans, stocks, bonds, life insurance - basically, everything you own based on current value, not when the assets were purchased. Joint property and property in a trust from which you benefit may also be included. After adding this all up, you may suddenly find you are worth more than you thought. Even if an individual has a very modest estate, planning is still essential. Executing a will or trust that provides for disposition of your assets is always a good decision. There are other critical issues that need to be addressed. For example, if a severe medical emergency arises, have you appointed someone to make your health care decisions? In such an emergency, have you appointed someone to pay your bills and manage your financial affairs? These and many other issues must be confronted regardless of the size of your estate.

AND THE #1 EXCUSE

“I am going out of town. My work pace is hectic. I have too many organizations that need my time. I am busy right now. As soon as my schedule permits, I’ll call you and get started.”

Unfortunately, events beyond our control often intervene in our lives. Being busy is a handy excuse to delay a task that you think you can always do later. A sudden serious illness or accident will leave your family with an inadequate plan or no estate plan at all.

These are only the “Top Ten” excuses we encounter and our responses to each. If any one of them applies to you, you should contact your estate planning attorney at Thomason and Hessmer and start or complete your planning process. The best time to plan your estate is when you are in good health and in position to make sound, thoughtful decisions about matters that have far reaching consequences. You will ensure peace of mind for yourself and save your family time, stress, and money.