

THE STATE OF YOUR ESTATE

BY NOREEN LIVOTI

Common mistakes of estate planning — and how to make sure they don't happen to you.

It's not a topic most people enjoy talking about, but addressing one's own death — and what happens to your family, assets and belongings afterward — is crucial. Although the term “estate planning” may conjure images of wealthy aristocrats of the 19th century, it's a topic relevant to most of the population, and ignoring it could have a myriad of negative repercussions for those who survive you.

Estate-planning “blunders” — mistakes lawyers and financial planners see daily — could mean emotional and monetary hardship for those already dealing with the death of a loved one. According to experts, putting in the time to have a plan in place not only gives you peace of mind, but can also save your family from unnecessary stress in the future.

NO PLAN AT ALL

As the old saying goes, “fail to plan, and you plan to fail.” The most common estate-planning blunder according to experts? Ignoring the issue entirely. “The

biggest mistake people make is not taking care of their estate-planning needs until it is too late,” says Marielle F. Hazen, elder law attorney and owner of Hazen Elder Law in Harrisburg. “Tax planning and asset protection opportunities may be lost without proper planning.” And whether you have a savings account of \$1,000 or \$1 million, says Brian Black, partner at Gibbel, Kraybill & Hess in Lititz, is irrelevant. “Even persons with modest estates have planning needs,” says Black. “For example, if a person has minor children, planning allows the person to name the guardian to care for [them] and provide arrangements for funds to be managed for [their] benefit.”

Without an estate plan, you waive your rights to determine where your assets end up. “If you don't create a will, the state creates one for you,” says Peter LaBella, partner at FMA Advisory in Harrisburg. “You might not like that.” By creating a will and organizing your estate, you're protecting what's important to you, even after your passing. “You should really think things out

and see what you want to have happen,” says LaBella, who suggests taking an inventory of everything you own and asking yourself, “what do I want to have happen if I'm not here tomorrow morning?” Does that savings account go straight to your spouse? Do you put money in a trust for a child? “There's nothing wrong with any of these options, but decide them,” he says. “Don't let someone else choose for you. If you're in a relationship, you don't want to leave a mess for someone else at the worst possible moment.”

AN OLD WILL IS NOT A GOOD WILL

Another common blunder is treating a will as a “once and done” deal. “Your life changes, your children change, your needs change,” says LaBella. So, then, should your will. “Estate-planning documents need to be reviewed and updated periodically,” adds Hazen. “Planning should be reviewed to take into consideration things such as any tax or other law changes, new accounts or

Without an estate plan, you waive your rights to determine where your assets end up.

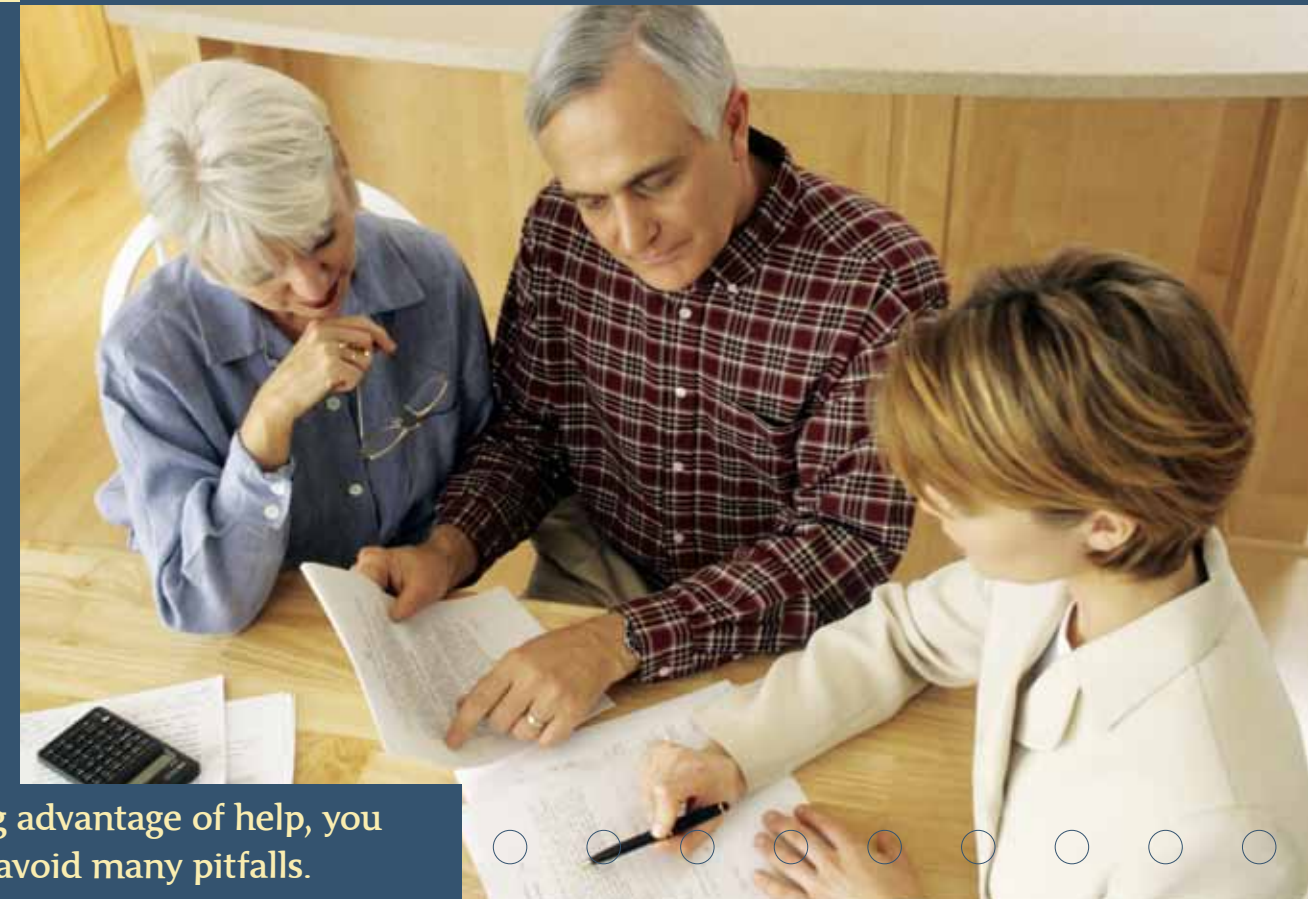
assets, health changes for the individual or beneficiaries, and family changes such as births and deaths.” Lee Pelko, certified financial planner at Rodgers & Associates in Lancaster, suggests updating your will every five years to deal with these modifications.

When you do, organization is key. “People will have a will, but not communicate what types of assets they have,” says Pelko. Be sure your spouse or executor knows about your assets, including CDs, stocks and life insurance policies, update them and try to consolidate them if possible. “If you have 15 different companies, then you have to call investor relations for all of them,” says Pelko. “These things really put a lot of responsibility on the survivor or the executor,” not to mention a possible hefty sum of money to a lawyer. And, be sure to keep your will in a place where you and your executor can easily

THE AMWORLD



While many people believe that whatever a will says will be carried out, this is not necessarily true.



Start planning early — as soon as you have assets in your own name.

By taking advantage of help, you can avoid many pitfalls.

find it: Having the original will is crucial to carrying out your wishes, as even copies of a will would have to be given to the state for testing before it can be carried out.

THE WRONG PERSON'S IN CHARGE

It's a plotline in at least one episode of all the police dramas: The greedy relative named as executor of a family member's will tries to get all the assets for himself. While that may not happen as often in real life, naming the wrong person as executor can cause a lot of stress both to that person and the rest of your loved ones.

"Many of my clients want to name their oldest child as their executor of the will because they feel that it is an honor that must be bestowed upon the oldest," says Jacqueline A. Kelly, attorney with Jan L. Brown & Associates in Harrisburg. "This can turn out to sometimes be a mistake when the oldest child does not have the efficiency or responsibility it takes to be an

executor." And while naming more than one person as co-executor may seem like a fair trade-off, Kelly warns against that as well. "When co-executors are appointed, both of them must make all the decisions and sign all estate paperwork, which prolongs the estate process and is very inefficient," she says. "The other result is that the relationship between the co-executors could be ruined."

Start planning early — as soon as you have assets in your own name, says Pelko — and take time to name an executor you know will be willing and able to carry out your wishes. Sit down with the person and have a talk. "You want to name an executor that has some knowledge or you feel could make the decision to delegate if they needed to," Pelko says. "It's not always automatically your spouse or the child that lives closest to you."

IT'S ALL ABOUT OWNERSHIP

While many people may believe that a will is the "trump card" for a person — that

whatever it says will be carried out — this is not necessarily true. Failing to realize that a jointly held asset will automatically pass on to the surviving owner, regardless of what the will says, is a major blunder. Says Pelko, "If you want everything to go to your children, but you own everything jointly with your spouse, nothing is going to your children." The first thing to do, then, when planning your estate should be to gather paperwork on all your assets, including the deed for your house and stock certificates, for example, and to make sure the person listed as the beneficiary is correct.

Furthermore, "Many people add children on their bank accounts or other assets as a matter of convenience because they believe that the child will have easier access and be able to pay bills," says Kelly. "I had this very situation occur recently, where I met with a client to draft a will. Upon discussing the woman's existing assets, I discovered that her only existing assets were jointly held

with her son. The problem then became that the woman wanted to disinherit this son and leave her estate to her grandchildren. I explained that she would have to have her son take his name off of her accounts as a joint owner in order that her assets be distributed to her grandchildren under her will."

Adds Hazen, "You can have the best-drafted estate-planning documents, but if your account ownerships and beneficiary designations are not coordinated with the documents, the planning will not be effective."

GOING IT ALONE

As people age, they must make end-of-life choices, gather more assets and try to keep up with new tax laws. There's no question: Estate planning can be confusing. By taking advantage of help, you can avoid many pitfalls.

The Internet can be a good source to start researching your own specific situation.

Hazen suggests websites including a savings bonds calculator (treasurydirect.gov/indiv/tools/tools_savingsbondcalc.htm), a guide to saving for college (savingforcollege.com) and Social Security's website (ssa.gov). "Most state bar associations, including the PA Bar Association, have a consumer section of their website which can be a solid source of foundational information," says Black. "Also, most major life insurance and financial services companies, banks and brokerage firms and mutual fund companies have websites that provide a wealth of estate-planning guidance."

Black sees these as a springboard to planning with a professional. "Ideally, persons should have a "team" of professionals who are communicating with each other and the client in completing their estate planning," he says. "This team often consists of the CPA, financial advisor, estate planning attorney and in some cases, insurance advisor and banker."

Why the need for so much help? Changing tax laws, for one thing, which can greatly affect the amount your loved ones will receive from your estate. "The most recent legislation enacted a 35 percent tax rate for estates that are over \$5 million," says Kelly. "With the exemption level set this high, most estates will not be subject to the tax," says Hazen. "The problem is that unless the law is changed, in two years the exemption amount will return to the 2001 level of \$1 million." The Pennsylvania inheritance tax may be even more important, as how much state tax is taken depends in part on who inherits the asset.

"There are some definite things that people always need to be reminded about in estate planning," says Pelko. "It's usually not a favorite activity — nobody really likes to think about it. There are usually some emotional issues. But that's why you need somebody knowledgeable to talk you through them."*