A Few More Estate Planning Pitfalls

Last quarter we considered five of the most common estate planning pitfalls, including,

1. Don’t be pennywise and pound foolish – get it done right
2. Consider life insurance
3. Watch out for changes in your family
4. Have your assets increased?
5. How are things titled, both new and old, and who are those beneficiaries?

But the list (and the problems), go on and on. Now let’s consider several more potential issues.

6. Is there a plan for the business, the home, the assets and your estate?

The process for laying out the succession of a family business or business interest presents unique difficulties as well as unique opportunities. Here the transfer of ownership may present challenges but even greater challenges lie in the transfer of management responsibilities.

If the children or spouse are not prepared, or perhaps not even old enough to take over the business, the future of the business and its value may be questionable at best. There are numerous potential strategies for business succession and what is best will be highly dependent on details that will be unique for every business. Key man insurance and buy-sell agreements and plans are only two of many possibilities.

The topic of business ownership and management succession is a lengthy and complex topic, far beyond the scope of this article. If you have any question or uncertainty at all, give The Idlewild Foundation a call. We work closely with The National Christian Foundation and professional advisers who can help with this challenging topic. One solution you may want to consider involves making a charitable donation of some or all of your business, your home or other accounts and assets. You might be surprised at what God can do with your generosity. See [the story of Alan and Nathan Barnhart](#).

7. Tax Consequences matter

Remember Prince who left no will when he died in April, 2016, and did nothing to shelter his assets from the state or federal taxes? There were steps he could have taken. As a result, federal and state taxes are claiming close to half of his estate. Lawyer's fees will claim an unreasonably high fee as disputes eat into his estate, disputes such as:

> Three of his heirs asked judge to remove the estate administrator
>
> Tapes of Prince's unreleased music were moved to California and his heirs raised objections

The value of Prince's estate when he died was subject to a federal tax of 40 percent and 16 percent for his state of residence, Minnesota. Relatively simple estate planning could have set up trusts to benefit select relatives and charities, leaving little, if anything, for taxes.

A more common illustration comes from John Doe's estate. John had carefully saved and invested over his work life. He had a 401(k) and non-qualified savings and investment accounts he had built up during his years of working, saving and investment. The 401(k) rolled over into an IRA upon his retirement. John wanted to leave $200,000 to his church upon his death. The rest, including his substantial IRA, he wanted to leave to his children. His will was written simply and exactly as he wanted, $200,000 to his church and the balance equally to his three children. That sounds reasonable and simple.

The problem is that it was too simple. That "plan" was unwise, did not consider taxes, and reduced substantially the money John's children inherited. Here's why.

John's church got the first $200,000. His children got the rest, including a large tax bill for the IRA. Rather than have a simple "plan," John should have funded his bequest to his church with his IRA. That would have reduced the taxable income due to the IRS. The church would not have had the same tax bill as the children. The end result of John's "plan" was higher taxes and a reduction by what his children would receive probably by $50,000, perhaps more, depending upon the tax brackets of the children. That wasn't bad estate planning, it was no estate *planning*.

Or, change the facts a little and another quite common error appears. John had only two sizeable assets, a life insurance policy with a payout of $250,000 and his home as he neared the end of a terminal illness. Both had close to the same value when he did his estate "planning." John saved money and just named his oldest son as the beneficiary of the life insurance policy and deeded his home to his youngest son. Then, John passed away. The proceeds of life insurance went to his oldest son income tax free. But the youngest son lost out. The transfer was subject to the gift tax laws, and then when the youngest son sold the home, the basis was not a stepped up basis but John's purchase price 35 years earlier. The youngest son lost twice, ending up with far less than his older brother.

There are dozens of 'traps" and areas where non-attorneys and even less skilled attorneys can make missteps, resulting in larger taxation, family fighting or even the destruction of a hard-working and loving person's family and legacy.

8. Are your important records secure?

Your personal representative upon your death and whoever you designated as your power of attorney upon your incapacity will need the following documents:

- Your will,
- Any trust you have,
- insurance policies,
- real estate deeds,
- certificates for stocks, bonds, annuities,
- information on bank accounts, investment accounts, mutual funds, safe deposit boxes and any safe you may have,
- information on retirement plans, 401(k) accounts, or IRAs,
- information on all debts: creditors, credit cards, mortgages and loans, utilities, and unpaid taxes,
- information on funeral prepayment plans, and any final arrangements instructions you have made.

It is absolutely essential for you to keep your will completely secure in Florida. A lost, damaged or destroyed will, or even one with writing on it may result in the will being declared to be void. A photocopy of a will is not useful for starting probate in Florida.

For additional ideas on what to have and hold securely, see Essential Documents – End of Life Checklist.

9. Has anything else changed?

It isn't possible to list of describe every possible change in life or circumstances in a book much less in a simple article. That is why expert advice matters and is worth what it costs.

People change and their circumstances change. An arrest, a job loss, a divorce, a re-marriage, a death or a birth, starting college, graduation, a car accident with a resulting disability, the purchase of a home, the sale of a home, a serious illness – the list is quite literally endless. Any of those life events and many more may cause your wishes for your estate to change, perhaps dramatically.

Remarriage with a resulting blended family increases the difficulties of planning and the risk of family fighting. That increases the need for serious and thoughtful estate planning for a world of complex possibilities.

There is an old saying that has a lot of truth in it, the only bad question is the one you do not ask. If something happens that might have an impact upon the life of any potential beneficiary, ask. If you don't know who to ask, call us at The Idlewild Foundation at (813) 264-8713, we can help.

10. Be honest – can they really handle it and will it hurt them?

Holding off an inheritance until a child or grandchild or other beneficiary is old and mature enough to handle the money is common and a justified step. Another angle on that is whether they really need the money. Yet another is whether there are better uses for the money. See our articles Giving to Your Grandchildren and Are You Giving Your Kids Money to Burn? For thoughts on how much is enough, call us at The Idlewild Foundation.

Can a child handle a large inheritance? Can even a young adult handle a large inheritance? Many parents and grandparents think the answer to both of those questions is "no."

Many prefer creating a trust and holding receipt of an inheritance until the beneficiary reaches an age chosen based upon knowledge of the maturity of the child or other factors. Often the ages selected tend to be somewhat arbitrary, but reasonable such as one third at 25, the next third at age 30, and the final third at 35. That may help, but it may simply prolong the failure; some will never be able to handle money.

Sometimes that can be addressed by a special trust or a guardianship. A trustee, or a guardian for a child or a special needs beneficiary can protect the estate from:

- Creditors of the child,
- poor spending practices of a child or the child's spouse and children, and
- a child's own family members such as a divorcing spouse.

There are many other considerations and possibilities, all well-beyond the potential scope of this article. Call us at The Idlewild Foundation at (813) 264-8713 and we will give you options for skilled and capable estate planning experts.

Now, last and far from least, we come to God.

11. Have you considered God?

God made all that you have possible. Perhaps you think you earned it all with your abilities, talent and hard work. The problem with that thought is that it leaves the reality of God out of the equation.

> Deuteronomy 8:18
> 18 But remember the LORD your God, for it is he who gives you the ability to produce wealth, and so confirms his covenant, which he swore to your ancestors, as it is today.

God made it possible for you to acquire wealth, either a lot or a little. But it isn't yours even though you worked for it and earned it. It all belonged to God before you got it, it belongs to God while you have it, and it will belong to God long after you are gone.

> Psalm 24:1-2
> 1 The earth is the LORD's, and everything in it,
> the world, and all who live in it;
> 2 for he founded it on the seas
> and established it on the waters.

So, what does it mean that you have wealth? It means it belongs to God and you are only a steward. See our article What Is Biblical Stewardship? For a full explanation of the blessing of stewardship God has given us. Stewardship began in Genesis 1 and continues today. What we do with what God has allowed us to hold is important, it matters to us and it matters to God. Why do you have it? God has an answer for that one too.

> 2 Corinthians 9:8
> 8 And God is able to bless you abundantly, so that in all things at all times, having all that you need, you will abound in every good work.

You have so you can give and serve God. It is not for you and your benefit. Instead, it is for His glory. 2 Corinthians 9:13. Give us a call at (813) 264-8713 and we will share with you legal, tax-wise, and creative ways you can benefit yourself and still be generous toward God. For some examples and a few starter ideas, read Planned Giving – A Blessing For All or check out the resources at our Planned Giving Works page.

You may want to consider the longer part of your short life, eternity. Solomon, the wisest man to ever live came to realize the shortness of life. He was also aware of the enormous length of eternity and the judgment he faced – and that all of us will face.

> Ecclesiastes 12:13-14
> 13 Now all has been heard;
> here is the conclusion of the matter:
> Fear God and keep his commandments,
> for this is the duty of all mankind.
> 14 For God will bring every deed into judgment,
> including every hidden thing,
> whether it is good or evil.

May God bless you and yours all the days that you have.