



3 Common Estate Plan Mistakes and How to Avoid Them

The experienced lawyers of Carlile Patchen & Murphy's Family Wealth Planning Group take pride in designing a comprehensive estate plan and drafting the documents which implement that plan. However, it is important to understand that once the documents are complete and executed, additional tasks are often required to ensure the plan is carried out when death occurs.

Too often, we see carefully thought-out plans that do not produce the desired result on death (including probate avoidance) because the appropriate follow-up work does not occur. Some of this work can and will be handled by your CPM attorney. For example, it is often necessary to change a deed for real estate or title the ownership of family or closely held business interests. However, some tasks must be initiated by the client, and where we see the most estate planning mistakes.

Update or Change to Beneficiary Designations

The most common issues that arise are updates or changes to beneficiary designations and titling of various assets, including IRA/employer retirement plans, life insurance, annuities, bank accounts, brokerage accounts, vehicles, etc. For example, we typically see life insurance and annuity beneficiary designations that name a spouse as the primary beneficiary and children as contingent beneficiaries. However, suppose you establish a trust to hold assets upon death for the benefit of a spouse and/or children. In that case, the beneficiary designation must be changed to the trust. Otherwise, the proceeds of that insurance policy or annuity pass directly to the individuals, and the benefits of asset management and protection under the trust are lost.

We also find unintended issues when clients name a spouse as the primary beneficiary and children as contingent beneficiaries for their IRA/retirement.

This is also true for individuals who name only a primary but not a contingent beneficiary. The failure to integrate the beneficiary designations within the estate plan can create unintended consequences and less favorable tax consequences for the beneficiaries when they receive the benefits.

Use Payable on Death and Transfer on Death Designations

For bank accounts (including Certificates of Deposit), broker accounts, vehicles, and even real estate, Payable on Death (POD) and Transfer on Death (TOD) beneficiary designations are excellent



tools used to transfer assets efficiently (and outside of the probate process) to beneficiaries, including trusts. Also, to properly implement some estate plans, jointly held financial accounts sometimes need to be re-titled to only one of those joint owners. Conversely, some individually controlled accounts need to be re-titled as jointly held.

All financial institutions (banks, brokers, insurance companies, etc.) have specific forms and processes for naming beneficiaries (including TOD/POD designations) and account owner changes. Accordingly, as part of your planning process

at CPM, we will carefully review the necessary changes and updates with you.

Estate planning is an ongoing process. Many clients make all the necessary changes when their plan is initially established, but "life" happens. Clients may change banks, acquire new insurance policies, purchase new vehicles, etc. Still, the appropriate beneficiary designations are not carried over. This is why it's critical to review and update your estate plans. It allows our attorneys to check to ensure beneficiary designations and titling of your assets are still appropriate for the plan.

Make it Easy to Access Your Digital Assets

One other aspect of estate planning that goes beyond the documents is rooted in the world of technology in which we live. Since many aspects of our lives are electronic, including our finances, those responsible for handling your estate (or trust) upon death must have, or know how to access, all of your email accounts, passwords, usernames, security questions, etc. Many clients like to keep an updated list of their estate planning documents. The inability to access a decedent's electronic accounts and records is a growing problem that creates many issues and additional estate administration costs.

The team at CPM stands ready to assist you with developing and implementing an estate plan that will give you peace of mind and significantly ease the process of settling your estate for the benefit of your family and other beneficiaries.