

Everyone is looking for ways to preserve their wealth. But what about ways of preserving wealth once you are gone? The attorneys at *Dismuke, Waters & Sweet* have the unique expertise and experience to help you provide answers to these questions. Having the proper estate planning documents and proper planning are essential to preserving your family's legacy. Each estate plan is customized to help families accomplish several very important objectives in order to protect minor children, heirs and assets while minimizing taxes and probate costs.

“Top 10” List of Easily Avoidable Estate Planning Mistakes

By **MICHAEL W. SWEET**

Because life takes unexpected turns, it is important to be prepared. Below is a list of avoidable estate planning mistakes:

1. **Failure to Update Estate Plan.** Estate plans are typically implemented to address circumstances that exist at the time the plan is executed. Subsequent and inevitable changes in both the law and one's personal circumstances can diminish the effectiveness, and even validity, of that plan. Therefore, an estate plan (particularly the estate planning documents) should be reviewed and updated on a frequent and regular basis.
2. **Inadequate Expression of Wishes.** Many individuals allow their will or trust to act as the sole expression of their ultimate wishes for their descendants. Because legal documents of this nature do not lend themselves to communicating the hopes, dreams and desires an individual has for his or her descendants, this treasured information can be permanently lost. Strong consideration should be given to appropriately supplementing one's estate planning documents with this equally important information.
3. **Naming Minor Children as Beneficiaries.** Naming minor children as beneficiaries of life insurance policies or retirement accounts can result in potentially large amounts of money being payable to the minor children. This necessitates the appointment of a court-approved guardian to manage the money for the children's benefit with all monies being paid directly to the children as early as their 18th birthday.
4. **Retaining Divorced Spouse as Beneficiary.** In the aftermath of a divorce, people often overlook the need to revise estate planning documents and beneficiary designations. Inadvertently leaving a former spouse as a named beneficiary can, in certain circumstances, give the former spouse unintended rights to the property of the deceased/former spouse.
5. **Failure to Coordinate Beneficiary Designations.** The failure to coordinate beneficiary designations on life insurance and retirement assets with one's estate planning documents can frustrate the overall purpose of the estate plan. Consequently, assets that are not governed by a will can be distributed in ways that are inconsistent with the wishes of the deceased.
6. **Outright Gifts.** A will that leaves property outright to a spouse or children can unnecessarily allow the inherited property to be seized by creditors and even former spouses of a decedent's intended beneficiaries. Care should be taken to ensure that an inheritance is safeguarded for the intended beneficiaries and no one else.
7. **Improper Beneficiaries of Retirement Accounts.** Improper beneficiary designations on retirement accounts can unnecessarily subject the retirement assets to claims of creditors. To

protect the assets from creditors, beneficiary designations on retirement accounts should be carefully coordinated with one's estate planning documents.

8. **Improper Titling of Assets.** Improper titling of assets can frustrate one's estate planning objectives. For example, property (such as a joint bank account) titled as "joint tenants with right of survivorship" will pass directly to the surviving owner at the time the other account owner dies, even when a will or trust may dictate otherwise.
9. **Employing a Revocable Trust for Creditor Protection.** A revocable trust should not be relied upon as a device to protect assets from an individual's creditors. Individuals should consider other planning techniques to legitimately protect assets from creditors.
10. **Overpayment of Estate Tax.** Many estate plans fail to fully utilize one's estate tax exemption available under federal tax law. As a result, a deceased person's estate can end up paying significantly more in estate tax than is otherwise necessary.

ABOUT DWS

Dismuke, Waters, & Sweet, P.C. was founded in 1990 on the principles of providing a combination of extensive experience and intuitive insight to assist clients in making not only timely decisions, but correct ones. The firm, with offices in Arlington and Southlake, applies time-tested techniques and innovative solutions with proper planning to achieve the results clients expect and need. Areas of practice include estate planning and probate, commercial and residential real estate, corporate transactions and litigation. To learn more, go to www.dws-law.com.