



Avoid These 10 Common Estate Planning Mistakes

The team from Theus Law Offices works with people from all ages and stages of life. While everyone has varied needs and desires, it can universally be said that the failure to plan for matters related to incapacity or death is in effect *planning to fail*.

More often than not, we see people who have made well-intentioned mistakes with their estate planning. It is our hope that by being aware of these correctable errors, you can avoid (or help your loved ones avoid) significant inconvenience, stress, expense and disappointment.

So, here are ten common estate planning mistakes to avoid.

ESTATE PLANNING MISTAKE:

01

Procrastination

Knowing isn't enough. You have to **ACT!** Procrastination is the silent killer of estate plans.

- **A**ssess your needs
- **C**reate what's missing
- **T**ie it in with your life!

Estate planning is the **most important** thing you can do to ensure everything you own and everyone you love will be protected.

» [Click here to get started](#)



ESTATE PLANNING MISTAKE:

**Failing to
maintain
your estate
plan.**

02

Everything changes and so must your estate plan - or eventually **it will fail.**



Family



Finances



Health



Law

All these things will change. We recommend that you review your estate plan regularly, or at any life changing event to ensure you remain “all set.” Unlike other estate planning law firms, Theus Law Offices offers a **complimentary Maintenance Plan** for estate planning clients, which makes maintaining, reviewing and updating your estate plan easy and affordable.



ESTATE PLANNING MISTAKE:

03

Choosing the wrong source for estate planning documents.



Canned or “ready made” Estate Planning forms are like a box of chocolates. **You never know what you are going to get until it’s too late!**

Beware of documents obtained from any source other than an estate planning law firm, especially forms you download from the internet, purchase at an office supply store, or forms prepared by non-lawyers.

Only a licensed Louisiana lawyer can give you proper counseling regarding your estate plan.

Theus Law Offices has successfully litigated numerous will contests. It is **“penny wise and pound foolish”** to entrust anyone other than a qualified Louisiana estate planning attorney to prepare your estate plan.

ESTATE PLANNING MISTAKE:

04



Failure to coordinate non-probate assets and over-use of “pay on death” accounts.

A Will or Trust does not control the disposition of assets that are governed by beneficiary designation, like:



Life Insurance



Retirement accounts



Annuities



“Pay on death” accounts

These “non-probate” assets must be coordinated with the entire estate plan to **avoid unintended results** and provide estate liquidity, where necessary. Testamentary intent can easily be frustrated by failing to take into account non-probate assets.

In a medium or large size estate, holding significant assets “...with rights of survivorship” or “pay on death”, potentially **thwarts the overall plan and increases taxes**. Consult with a qualified estate planning attorney about how to hold your accounts while living, and again immediately after a death.

ESTATE PLANNING MISTAKE:

05

**Failure to plan
for blended
families
and other
contingencies,
such as people
dying “out of
order.”**

“I won’t have any trouble with my spouse’s kids if my spouse dies. I get along great with my step-children.” **Please, don’t count on it!** Probate tends to bring out unresolved issues and undesirable character traits in most people. Unpleasant dynamics emerge even in the closest of families. Estate planning documents should cover contingent situations such as:

A predeceasing spouse or child

- Make clear provisions for a surviving spouse. Avoid putting a surviving spouse in a negotiating position with children.
- If minors or incapacitated persons inherit if someone dies out of order, establish a contingent minor’s or special needs trust. Always nominate guardians or tutors for minor children.

Tax laws changes

- Even if your estate is under the current value threshold subject to Federal estate tax, it is always best to plan for that contingency.

ESTATE PLANNING MISTAKE:

06

Misuse of revocable living trust planning.

Misuse of revocable living trust planning. A Revocable Living Trust can be a useful tool, but is not a magic elixir. Proper funding of a Revocable Trust is vital and can be overlooked, which will defeat a substantial purpose of a Revocable Trust in avoiding probate.

Revocable Trusts can be useful for certain purposes, such as:

- Avoiding the cost and administrative burden of probate
- Preserving the characterization of assets
- Avoiding ancillary probate in another state
- Maintaining privacy
- Minimizing disputes
- Improved control over assets during a period of incapacity, or as part of a comprehensive asset protection plan.

Revocable Trusts provide **zero asset protection or tax benefits alone**, but in conjunction with other devices, can be useful in toggling control or effecting a relatively quick transition of assets across state lines or into more protective entities. A full understanding of the benefits and limitations of a Revocable Trust is recommended before engaging in revocable trust planning.



ESTATE PLANNING MISTAKE:

**Failure to
consider the
impact of
community
property laws.**

07

All property is presumed to be community property if you live in a community property state, unless there is legal proof of separate property status. This is true even if the property is held in the name of only one spouse. This can dramatically impact an estate plan.

- ***Surviving spouses can be left destitute.***
- ***Children can be effectively disinherited.***

Disputes regarding the character of property are common and expensive. Failure to consider, change, or preserve the character of property can disrupt the best laid estate plan.

ESTATE PLANNING MISTAKE:

08

Failure to plan for potential incapacity.

A **Durable Financial Power of Attorney** will allow your selected “agent” to make financial decisions if you become incapacitated.

A **Durable Medical Power of Attorney** will allow your selected “agent” to make medical decisions if you become incapacitated.

An **Advance Healthcare Directive** (a/k/a Living Will) will allow you to make important end-of-life decisions regarding the continuation of life support.

Failure to have these documents in place **before an event of incapacity** often requires an **expensive court proceeding** to appoint a guardian or curator, or a “right to die” contest.



ESTATE PLANNING MISTAKE:

09

Putting a child's name on a deed or account.

If you need to divest yourself of assets for some reason, such as asset protection planning, create a plan that allows you to maintain control of your assets. Assets transferred to a child during life are subject to their risks, such as **divorce, death, bankruptcy, or other claims**. This puts your financial security at risk.

You also leave **money on the table** with a direct gift to a child. A child will not receive a **stepup in tax basis** for any asset received as a lifetime gift, triggering **taxable income** if the asset is later sold by the child. Conversely, assets received by way of an inheritance or the right kind of trust receive a step-up in tax basis, which means the asset can be sold **tax-free**.



ESTATE PLANNING MISTAKE:

**Choosing
the wrong
attorney and
not discussing
Asset
Protection.**

10

An experienced estate planning attorney can provide you with strategies based on the particular circumstances, including advanced need such as ***Asset Protection***.

There are very few attorneys with the resources and capabilities to provide effective **Asset Protection from unforeseeable claims, lawsuits, or nursing home poverty**. This is particularly important in Louisiana where virtually anything, including your home, can be seized and sold to satisfy claims.

Theus Law Office uses the most trusted and tested tools and techniques available, and our clients are guided by premier-rated Estate Planning and Asset Protection attorneys. As such, Theus Law Offices is uniquely qualified to offer Estate Planning and Asset Protection solutions of the highest caliber

Remember that ***knowing isn't enough***. You have to **ACT!**

Ready? **Let's Geaux!**

» [Click here to get started](#)