

ST. LOUIS ESTATE PLANNING, LLC

ATTORNEYS AT LAW

Frequent Estate Planning Problems We See

Use the list below to identify and solve potential problems early.

This is NOT intended to serve as legal advice, but merely as examples.

You should seek legal counsel in your state of residence.

1. Beneficiary Designations

- Review beneficiary designations on every account, at every financial institution and on all life insurance policies.
- This should be done at least every 5 years.
- “Qualified” retirement accounts have tax considerations in addition to beneficiary designation considerations. These accounts normally list a spouse as the primary beneficiary and often list a Trust as contingent, if the Trust is drafted to handle qualified assets.
- These designations are extremely important, and a financial advisor should be consulted as necessary.

2. Stale Plan

- Look for changes in family situation, fiduciaries, or financial position.
- Review estate plan every 3 to 5 years.
- Is the plan too complicated for current needs?

3. Planning for Real Estate

- Understand how your home or other property is titled.
 - o Tenants in Common vs. Joint Tenants with Rights of Survivorship
 - o Has anything changed on the title since you purchased it?
- Has a beneficiary deed been filed?

4. Blended Families

- Problematic with beneficiary designations.
- Often there are strong opinions with lots of emotions. This is easy to solve ahead of time and often fought over later, if not in place prior to death.

5. Upcoming Medical Issues

- Can't ignore, but it's a tough conversation.

6. Your Parents' Estate Plan(s)

- Are their documents up to date?
- This very quickly becomes your problem.

7. Do It Yourself Documents or Online Docs

- Choices are often inconsistent or not always fully thought through.
- Rare to have contingency planning with these.
- Assets rarely fund properly.

8. Seniors Getting Married

- Kids may be unintentionally disinherited.
- Estate plan can be challenged after 1st death by surviving spouse. Prenups are recommended.
- Medicaid expects spouses to financially provide for each other.

9. Seniors Not Getting Married

- Preferred option by estate planning attorney.
- No automatic spousal rights. Need a plan to consider the survivor: Where will they live, income stream from other's assets, who makes health care decisions?

10. Solid Long-Term Marriage – Survivor has a “Target” on Their Back After First Death.

- Gold digger protection. Can plan for this.

11. Separated but not Divorced

12. Small Business Ownership / Family Farm

- Business should have a logical TOD listing on any ownership or forced payout.
- Family farm held indefinitely in trust “for future generations” = likely future problem.

13. Child's Name Added as Co-owner

- Usually done on bank accounts or real estate
- At risk of child's divorce, bankruptcy, lawsuits.
- Asset skips the estate plan... belongs to the co-owner

14. Special Needs Beneficiary

- Will likely lose government aid if they inherit.
- Special Needs Trust is the solution.

15. Tax Planning

- Planning to receive a “step up” in basis may be important.