

# TOP TEN

By: Doug Goldberg

## *Estate Planning Mistakes*

### **1 No Plan, Wrong Plan or Outdated Plan**

Amazingly, seventy percent of Americans have no plan. Of those who have a plan, thirty percent have a plan that is outdated. Less than ten percent have a current, workable estate plan. This mistake is commonly the result of procrastination. Resolve to make planning your estate a top priority. You and your loved ones will be glad you did.

### **2 No “Incapacity” Planning**

Many consider estate planning merely an after-death distribution program for their assets. However, a truly comprehensive plan incorporates planning for the possibility of your own incapacity. Who will make personal, health care and financial decisions for you if you can't make them for yourself? You can decide or you can let a probate judge who does not know you or your wishes select one for you in a public, probate proceeding.

### **3 No “Back-Up Parents”**

Most families consider children to be their most important assets. They devote considerable time and money to providing education, social and athletic activities and religious training for their “two-legged investments.” Incredibly, most parents fail to legally appoint the guardians (“back-up parents”) for their minor children in the event both parents die. Guardians will raise your children and follow the instructions you leave them to accomplish your goals and dreams for them, but you must legally appoint the guardians in advance of a tragedy. By the way, listing the guardians on a cocktail napkin in the airport lounge will not work.

### **4 No Inheritance Protection**

What happens to your assets if your wife remarries after you die? Do you really want half of the inheritance you left to your daughter going to her ex-husband? Inheritance protection is a critical piece of the planning process. Asking the question “How do my heirs receive my assets,” is just as important as the questions relating to “who” and “how much.” Ensuring your children and grandchildren use the assets you leave them to further your family values and not lose them to poor spending habits, a lawsuit or bankruptcy takes planning and discussion.

### **5 No Basic Estate Tax Planning**

As of 2008, a married couple, assuming both parties are U.S. citizens, may protect up to \$4 million of their assets from federal estate taxes through proper estate planning. However, if your planning includes owning property in joint tenancy or designating individual beneficiaries, you may waste up to \$2 million of this protection.

### **6 Incorrect Life Insurance Planning**

Although life insurance is a basic, financial tool, most people do not own enough. Even if they do own enough, chances are it is not owned correctly. One of the greatest tax myths is that life insurance death benefits are “tax-free.” While death benefits may be “income tax-free” to the beneficiary, the entire value of the death benefit is part of the policy owner's estate for federal estate tax purposes. You may structure your life insurance to avoid federal estate taxes and still fulfill your goals through a properly structured and coordinated estate plan. Otherwise, the IRS may be the beneficiary of half of your life insurance.

### **7 No Planning For Multi-State Real Estate**

Real estate is subject to probate in the state in which it is located. If you own real estate outside Colorado, the property must go through probate in the state where located before it may be transferred to your family. Probate, whether in Colorado or in another state, can be avoided if you desire. However, you must make appropriate legal plans in advance.

### **8 Improper Planning For Retirement Plans**

Much of the private, individual wealth in America is in IRAs and qualified retirement plans. Without careful coordination between your financial plan and your estate plan, over 75% of your retirement plan will go to the IRS instead of your loved ones. With proper planning, the tax impact on these assets can be substantially minimized and protected for generations.

### **9 No Business Succession Planning**

Only thirty percent of family businesses survive from the founding generation the next. The success rate thereafter is even more dismal. Most business owners fail to make plans for the transfer of their business. For example, if some children are active in the business and others are not, how do you treat everyone “equally” as well as “fairly?”

### **10 No “Tax-Smart,” Lifetime Giving Program**

The “annual gift exclusion” is an overlooked and underutilized planning opportunity. Each year, you can give up to \$12,000, tax-free, to as many individuals as you desire. For estates already subject to federal estate taxes ranging from 37% to 46%, this technique will remove the gifted asset's value from your estate. Competent professional advice should be sought before making a gift of “appreciated property” because of special capital gains treatment such assets receive upon the death of the asset owner.

# GOLDBERG

## LAW CENTER PC

PEACE OF MIND. BY DESIGN.

*"Your estate plan is the final conversation you'll have with your loved ones.*

*What do you want it to say?"*

Custom, personal and unique. That's the hallmark of Goldberg Law Center, P.C. Our 23-year-old practice is limited to designing and implementing highly customized strategies and delivering workable solutions to individuals, families and entrepreneurs. If you are looking for generic documents or "one-size-fits-all" planning that you can get for the lowest possible price, with a minimum of commitment and involvement, we are not your answer. But, if you are looking for the ultimate peace of mind experience – one that's very hands-on, highly personalized, totally interactive and extremely rewarding – a plan that will accomplish each and every one of your goals for you, your family and your business, we may be just what you're looking for.



Douglas G. Goldberg, Esq.

- ◆ Estate Design
- ◆ Retirement Planning
- ◆ Asset Protection
- ◆ Business Entities
- ◆ Charitable Giving
- ◆ Real Estate

(719) 444.0300

629 N. Weber, Suite 1  
Colorado Springs, CO 80903

[WWW.GOLDBERGLAWCENTER.COM](http://WWW.GOLDBERGLAWCENTER.COM)