

Common Estate Planning Mistakes

Loss of Spousal Exemptions

Many married couples fail to establish a Credit Shelter or Disclaimer Trust provision in their Wills. Although everyone is entitled to a \$5,000,000 exemption from Federal estate taxes and \$1,000,000 for Maine estate tax, a Credit Shelter or Disclaimer Trust must be incorporated in the Will in order to take advantage of each spouse's exemption. Under either trust, the surviving spouse continues to receive the income or principal from the Trust, and the children can inherit the money left in the Trust when the spouse dies with no estate tax due. Many of you who have Credit Shelter Trusts in your Wills should revise them into Disclaimer Trusts because of the recent estate tax changes. Many will be paying a Maine estate tax on the death of the first spouse to die, if you do not revise your Wills. Please call us to review your estate planning and make any necessary changes to your documents.

Bad Beneficiary Designations

People often spend hundreds or thousands of dollars for their estate planning documents but pay virtually no attention to their beneficiary designations under their IRA, pension plan, or life insurance policy. Often these assets control more valuable amounts than the Wills. Careful review must be made of all beneficiary designations.

Titling of Assets Incorrect

Too often, couples do not hold title to their assets correctly. Assets titled jointly cannot be used to fund a Credit Shelter Trust. Either separating the assets or holding title to assets as tenants in common and "not as joint tenants" can easily cure this. Most people hire the lawyer only to create the revocable trust, and then they proceed to re-title assets on their own for cost reasons. Generally they miss assets, do not properly title all of them in the living trust, and still must probate.

Trust Propaganda

Too often revocable trusts are touted as magic wands. They cannot reduce your taxes (without specific tax clauses or trust crafted within the living trusts, just as they can be within a Will). Although they can help avoid probate, they do not avoid probate in situations where not all of the assets have been titled in the Living Trust. Further, Maine probate is not costly.