Seven Common Mistakes in Estate Planning and How To Avoid Them

Nevin Beiler, Attorney

“You must learn from the mistakes of others. You can’t possibly live long enough to make them all yourself.” – Samuel Levenson

Learning from the mistakes of others can help us avoid those same mistakes and save a great deal of money and heartache. The same is true in estate planning. It pays to learn from those who have gone before us.

To help you in your estate planning journey, let’s look at some common mistakes people make and how you can avoid them.

#1. Failing to Plan

Doing nothing is probably the most common mistake people make in estate planning. Doing nothing is easy and cheap; that is, until you are gone and your heirs are left to sort out the mess.

Everyone should have a plan, not just the old or wealthy. If a person dies without a will, the law provides a court-supervised process to distribute assets, administer the estate, and appoint guardians for minor children. But what a judge chooses is not always what the deceased would have chosen.

Consider the following scenario. A middle-aged man dies, leaving a wife and three young children. He did not leave a will, but he had always told his wife that upon his death she can sell his business and live off the proceeds. The business eventually sells for a liquidation price of $400,000, but the widow discovers she is entitled to only $215,000 under the laws of Pennsylvania. The children will equally split the remaining $185,000 (subject to inheritance tax) and a guardianship will be established to manage the children’s inheritance until they turn 18.

Also, the wife’s name had never been added to the deed for the family home the husband purchased before their marriage. This means the children are entitled to a portion of the home (which will also incur inheritance tax) rather than the widow owning it outright and free of tax.

A simple estate plan could have avoided this complicated result and ensured the husband’s wishes are carried out.

Even if a married couple jointly owns all assets and the surviving spouse can receive everything, some simple planning is still important. If both parents would pass away, a plan ensures the children will be cared for by trusted caregivers, not whomever a judge decides to appoint as guardian. A plan can also reduce the chance of siblings, children, or in-laws fighting in court about what should happen to children or assets.

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Furthermore, a plan usually means less work and less cost in administering an estate after death.

A trusted estate planning attorney can help you think through the unique challenges of your situation and adopt a plan that will bless your heirs and your peace of mind. Don't forget to periodically review and update your plan as necessary. Remember, failing to plan is planning to fail.

#2. Not Communicating About Plans While Living
Adopting an estate plan early in life and then updating it as life circumstances change is a great first step. But don't forget to communicate your plan to your heirs, executors, and guardians. This can avoid surprises and hurt feelings later on.

Prior to naming someone guardian of your minor children, discuss with them whether they are able and willing to serve. Also, talk to your executors to ensure they feel comfortable in that role and know where to get help if needed. If the people you name are not able or willing to serve, then naming them in your will is useless.

Have a family meeting with all your heirs to discuss your plans for your estate. You may not be comfortable sharing all the details, but be as open and detailed as you can. Discussing your plans with your heirs can avoid unpleasant surprises and conflict down the road. It can help reduce misunderstandings after you are gone. And, as you discuss, you may discover things you missed putting in your plans. You can then go back and address these issues in your estate plan before you pass away.

Many people grow up in a setting where estate plans and money matters are not freely discussed, and even take on an air of secrecy. This can be harmful to relationships if it results in disagreements or unmet expectations later on. Make the effort to communicate.

#3. Not Organizing Records Prior to Passing Away
Some people can live quite happily in a disorganized state. They can mostly remember what is stored where and find a bank statement or deed without too much paper shuffling. The problem arises when a new person suddenly has to manage all the affairs of the disorganized person. This often happens for executors.

A disorganized estate can be a major headache and significantly increase legal fees if an attorney has to assist with extra administration. Even if organizing your records does not seem worth it to you personally, consider those who are coming after you.

One way to organize your affairs is to consolidate your financial accounts as you get older. You may have multiple bank accounts, investment accounts, or IRA accounts with different companies. Consolidating them will simplify the estate. If there is a possibility of adverse tax or management issues, consult with tax or legal counsel prior to consolidating accounts. Leave written instructions for your executor that explain where all your financial accounts are held and where your important records are located.

If you have financial records on a password-protected computer, make sure your executor has the authority and ability to access those records, including online accounts. Your executor should also know about any safe deposit box and how to access it. If you have made private loans to individuals, leave adequate documentation for each loan, including current balances. If you want any of those loans to be forgiven upon your death, ensure the loan documentation or your will specifies this. Don't rely on verbal agreements alone!

Taking a few hours to organize your records can save your executor many hours and save hundreds or thousands of dollars in legal fees.

#4. Not Coordinating Non-Probate Assets with the Overall Estate Plan
Many people believe a will is to be carried out exactly as written, but wills have limitations. For example, a will can only direct who gets assets that go through the probate process. Examples of assets that typically do not go through the probate process include the following.

1. Real estate that is held in joint tenancy with a right of survivorship\(^1\) (with anyone), or as tenants by the entirety\(^2\) (with a spouse).
2. Assets that have a valid “transfer on death” designation.
3. Financial accounts such as IRAs, 401(k)s, or life insurance policies that have a valid beneficiary designation.
4. Jointly owned bank accounts.
5. Property held in a revocable living trust.

If a will tries to direct one of the above assets to a certain person, that attempted gift usually fails. Instead, the asset

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\(^1\)“Joint tenancy with right of survivorship” is where two or more persons own property jointly, and upon death, the deceased person’s share is automatically owned by the surviving owner(s). This is different from “tenants in common” ownership, where each owner owns a share of the property and their share of ownership can be passed to their heirs instead of automatically to the other owners.

\(^2\)“Tenancy by the entirety” is only available in certain states. This is where husband and wife own property jointly, with each spouse owning an equal and undivided interest in the entire property. It is similar in some ways to joint tenancy with right of survivorship, but has slightly different legal characteristics.
Summer Giving
Richie Lauer

Sunny summer days feel bountiful and busy. The sun shines. Lawns grow thick and green. Gardens yield their firstfruits with growing evidence of a heavy harvest in sight. Around home, Mom has a full-time job managing the household and the children. Dad has about as much work as he can handle whether on the farm, in construction, or in retail sales. All of this work needs attention, because the family plans to do something special together next week. There is a lot to do, and a lot gets done!

And some things get left undone . . .

The average charity experiences a financially “thin” period during the summer. Expenses continue month by month, but donations dry up. In the busyness of summer life, the Stoltzfus family didn’t think about sending a gift to the mission organization this month. The Martins forgot that they had wanted to sponsor an orphan or a school child in a foreign land. And the Millers never got around to deciding what God wants them to do with that extra money in their “Giving” envelope. It still sits there, doing nothing.

Across conservative Anabaptist communities, these little acts of negligence add up. Everyone is busy in the summer, including the treasurer at the little charity who wonders how he is going to pay the bills and keep the ministry afloat.

You took enough time to read these paragraphs, so please take enough time to do three more things today:

1. Pray. Ask God if some of the money in your checkbook is supposed to move somewhere else.
2. Consider options. If God is calling for some of His money to move, where should it go?
3. Go write the check and put it in the mail.

You’ll still have time left to go mow the grass.

Charitable GIFT FUND

A TOOL FOR SIMPLIFIED, TAX-DEDUCTIBLE GIVING TO CHURCHES AND CHARITIES.

The Charitable Gift Fund Program enables donors to:

– Anonymously support the churches and charities of their choice (gifts to individuals NOT permitted)
– Simplify their giving by writing one check to Anabaptist Foundation with disbursements to various charities
– Qualify for an immediate tax-deduction for their contribution and track their giving with quarterly statements
– Give gifts of cash, real estate, or stocks

For a FREE information packet, please contact Anabaptist Foundation.
Anabaptist Financial sends out client surveys to evaluate how we are doing with customer service. We value the feedback and suggestions for improvement. Survey responses are reviewed by our officer team and office staff.

Following are some of the survey comments along with a written response. We believe these comments and questions are representative of our client base, and by featuring them here, we hope to answer questions others may have.

Client suggestion:
- **Offer electronic statements.**
- **Offer online account access. I know this creates a lot of complexity, so paper quarterly statements are fine.**

**AF response:** Over the years, many of our participants have requested both electronic statements and online account access. We are now able to offer these features. More details will be given later this year.

Client suggestion:
- **By all means, report to credit ratings agencies.**
- **For me, it would be nice to be able to build credit since I always pay on time.**

**AF response:** From time to time, borrowers request to have their loan history reported to credit bureaus. We understand the value this feature would bring to borrowers. It is a very involving process to become qualified to report financial information to credit rating agencies. We will notify our borrowers when we have this capability.

Client suggestion:
- **Providing a locked-in interest rate would be wonderful.**

**AF response:** Providing a locked-in interest rate to borrowers involves a lot of risk to Anabaptist Financial’s investors. By paying a variable rate to both investors and borrowers, this risk is mitigated because both rates move in tandem. In order to offer long-term fixed rates to borrowers, our investors would also need to agree to fixed investment rates. With the constant inflow and outflow of both investments and loans, offering fixed rates is prohibitive at this time. We will continue to explore this possibility.

**Client suggestion:**
- **I would appreciate if my investment could be returned on shorter notice. For my business, it is almost impossible to know what I will need in 60 days. What about 1 week?**

**AF response:** Anabaptist Financial is an investment company, organized to handle long-term investments. We are not organized to handle daily transactions or frequent deposits and withdrawals like a bank is. Anabaptist Financial offers two investment options to enable investors to choose which best meets their needs:

1. A short-term Demand Rate account in which funds are available for immediate withdrawal. This account is for funds that may be needed on short notice.
2. A long-term, Demand Plus 60-Day account in which Anabaptist Financial has up to 60 days to return funds. We seek to honor withdrawal requests on the date they are requested and typically can do so. But it is important to remember that Anabaptist Financial is not a bank, and from time to time may need up to 60 days to return funds because of liquidity and cash management purposes. In order to pay our long-term Demand Plus 60-Day higher interest rate to investors, Anabaptist Financial must be able to make corresponding long-term loans to borrowers to earn these rates. Therefore, investors who need funds available on notice should always use the Demand Rate account.

Client suggestion:
- **It might be nice to be informed in a general sense how funds are loaned and for what purposes: schools, churches, farms, businesses, etc.**

**AF response:** From time to time, we feature loan portfolio reports in this newsletter. Thank you for the interest in seeing this information again.

Client suggestion:
- **It went several months before I received my first statement. After I called in, they started coming.**

**AF response:** We generate investor statements at the end of each quarter. Depending on when an investor sets up his account, it may be up to three months before he receives his first statement. Investors always receive a receipt for their funds at the time an account is opened.
PA Business Seminar

Shady Maple Banquet Center | East Earl, PA
Tuesday, September 17, 2019

Antrim Brethren in Christ Church | Chambersburg, PA
Thursday, September 19, 2019

A Vision for Business Planning | David Bower
The Business Planning Process | Greg Wolf
The Structure of the Business Plan | Leonard Meador
Planning With Financial Ratios | Larry Troyer
Business Analysis and Review | Greg Wolf
Planning Human Resources | David Bower
Planning Cost and Pricing | Larry Troyer
Identifying and Developing the Planning Strategies | Greg Wolf
Planning Sales and Marketing | Roy Herr
Clarifying Action Steps and Implementation | Greg Wolf
Making It Work: A Business Planning Case Study | Leonard Meador
Building A Budget | Larry Troyer

To register,
Call 570-468-1268 (Sierra Herr)
Register online at www.afweb.org
Email seminars@afweb.org

$10 early registration discount:
Register before September 3.

PA Employee Seminar

Shady Maple Banquet Center | East Earl, PA
Wednesday, September 18, 2019

Respecting the Leader | Jason Reed
The Impact of Trust | Daryl Weaver
Taking Responsibility and Initiative | Gerald High
Full Alignment and Engagement With Work | Nathan Rutt
QuickBooks Sales Sketch | Jay Martin
Making My Job My Business | Durrel Eby
Paid Up in QuickBooks | Jay Martin
God’s Plan for Changing the World Through Work | Jason Reed
Bits and Pieces of QuickBooks | Jay Martin

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Register before September 3.
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Common Mistakes

#5. Buying an Unneeded Revocable Living Trust or Failing to Properly Fund a Trust

Revocable living trusts are popular in estate planning, especially in states where probate is more difficult and expensive. Potential benefits of a living trust include (1) simplifying the probate process, especially for a person who owns real estate in several states; (2) saving money on legal fees and probate costs; (3) allowing easier property management if the grantors of the trust become incapacitated; and (4) avoiding the details of the grantors’ property management if the grantors of the trust become incapacitated. Some IRA accounts contain hundreds of thousands, even millions, of dollars. Even if the beneficiary decided to “do the right thing” and voluntarily share the account with the intended heirs as stated in the will, there could be unpleasant tax consequences.

To avoid this problem, review your estate plan to ensure that your property ownership and beneficiary designations are consistent with your overall estate plan and that your non-probate property will end up where you want it upon your death.

Living trusts are generally more costly to prepare than wills, and they require extra steps to properly implement. After an attorney prepares a living trust, a commonly missed but essential step is transferring assets into the living trust. This is called “funding” the trust. For example, to transfer a home or business property into a trust, a deed must be executed. Failure to fund a living trust means the trust will not function like it was supposed to and will likely increase the cost of administering the estate.

If you have created a living trust or plan to create one, it is very important that all assets meant to be in the trust are actually transferred into the trust. Some attorneys do a good job of ensuring this is done. Others seem content to collect a fee for drafting the trust without following up to make sure the trust is properly funded. Confirm with your attorney that all assets have been appropriately transferred, and if you purchase a major asset such as real estate in the future, consider putting it directly into the trust.

#6. Not Considering How an Inheritance May Affect Those Who Receive It

Professionals working in the estate planning field generally assume people want to leave all their assets to their children, with perhaps a small amount left to charitable purposes. Great emphasis is given to preserving and passing along family wealth. This might seem normal, but is it right? The answer is not going to be the same for everyone. Many people would agree that winning millions in the lottery can be harmful to a person’s work ethic and spiritual wellbeing. But those same people may not think twice about leaving a multi-million dollar estate to their adult children who are already financially self-sufficient.

For Christians who seek to follow the teachings of the Bible, failing to give any thought to “how much is too much” can be the biggest financial mistake of their lives. Leaving behind a sizeable estate can have eternal significance. The Bible does not encourage heaping up wealth, but instead warns of the dangers of riches.3 While a reasonable amount of inheritance may be a blessing to children, too much can cause serious harm.

Take the time for careful thought and prayer about who should receive your assets when you are gone. Consider getting counsel from people such as trusted friends or church leaders, not just your attorney or financial advisor.

#7. Not Obtaining Good Legal and Tax Counsel

Many of the above mistakes can be avoided by seeking

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3 Matt. 6:19-20; Mark 10:23-25; Luke 16:13; 1 Tim. 6:9-10
trusted, competent legal and tax counsel. Unfortunately, with the availability of low-cost or free templates, “doing it myself” becomes a tempting option in drafting wills and legal documents. Some people with small, simple estates have successfully drafted and signed their own wills. But many others ended up costing their family much more in money and headaches than if they had done it right the first time.

Unfortunately, going to an attorney for assistance does not always mean everything will be done right. Some attorneys offer estate planning services but know little more than the basics. Others are so busy they fail to work with clients before and after the estate plan is signed, which may result in substandard work. When hiring an attorney, be sure a significant part of that attorney’s legal practice involves estate planning. This increases the likelihood that the attorney has more than a basic understanding of the estate planning process.

Also, make sure the attorney takes time to understand your goals and values. This ensures the plan your attorney drafts is consistent with those goals and values, and the attorney’s advice does not lead you astray.

Finally, consider involving your tax adviser in the estate planning process to avoid unpleasant tax surprises. While the best estate planning attorneys have a strong understanding of relevant tax issues, many attorneys do not. Having both your trusted legal advisor and your tax advisor work together can add an extra layer of protection and quality for your plan.

**Conclusion**

Good stewardship and love for people is the foundation to estate planning. It is being responsible and caring for those we leave behind. It is also, for many of us, a lifelong process. Take time to plan. Update your plan as your life changes. Communicate. Organize your affairs. Seek counsel. Learn from the mistakes of others. And may God bless you in your journey.

Nevin Beiler is an attorney licensed to practice law in Pennsylvania (no other states). He practices primarily in the areas of wills and trusts, settling estates, and business formations and agreements. Nevin and his wife Nancy are part of the conservative Mennonite community, and Nevin previously served as the in-house accountant for Anabaptist Financial before leaving to become an attorney. Nevin’s office is located at 105 S Hoover Ave., New Holland, PA 17557, and he can be contacted by email at info@beilerlegalservices.com or by phone at 717-287-1688. More information can be found at www.beilerlegalservices.com.

Disclaimer: This article is general in nature and is not intended to provide specific legal or tax advice. Please contact Nevin or another attorney licensed in your state to discuss your specific legal questions.

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**BUSINESS ADVISING**

**Do you want to operate your business by stewardship principles?**

Anabaptist Financial exists to serve businesses of all sizes, helping them operate according to sound Biblical and business principles. Our advisors are conservative Anabaptist businessmen with a wealth of real-world experience. Expect to grow personally and become a fully equipped business leader as you learn how to apply business tools, procedures, and systems.

Choose from 15 advisors to best meet your needs and goals.

For more information, call David Sauder (Advising Facilitator) at 800-653-9817.
A rescue squad is urgently needed when someone falls off a cliff, but it would be much better if there were a fence to keep people from getting too close to the edge in the first place. For youth and young married couples, these seminars help them avoid the edge of the financial cliff and painful falls.

**Topics include:**
- Debt and its consequences
- Key principles of saving
- When and how to give
- And more!

To reserve your seats, call **570-468-1268** and leave a message or email sierraherr@afweb.org.
This business workshop will teach and train participants in the fundamentals of business planning from a Biblical perspective. You will receive practical tools through collaborative learning and hands-on work. This is not a seminar but instructor-led, classroom style learning.

**Workshop Objectives**

**DAY 1**

1. **Overview of the Business Plan**
   a. Learn the foundational principles of Kingdom-focused business planning
   b. Discover what goes into a business plan
   c. Understand the difference between a business plan, strategic plan, and action plan
   d. Use a deliberate process to develop a business plan

2. **Company Structure**
   a. Outline ownership structure
   b. Build an organizational chart
   c. Analyze the pros and cons of various legal structures

3. **SWOT Analysis**
   a. Create a SWOT analysis for a sample company

4. **Economic Analysis**
   a. Evaluate the economics of your marketing area
   b. Assess industry trends
   c. Select external data for your market segments

5. **Human Resources**
   a. Recognize potential HR needs and solutions
   b. Review your HR legal compliance
   c. Discuss subcontractor involvement

**DAY 2**

6. **Marketing and Sales**
   a. Describe your customers and market channels
   b. Develop an effective process for quotes and estimates
   c. Determine what marketing materials work for your company

7. **Operations**
   a. Clarify business type—service, manufacturing, or retail
   b. Identify key performance indicators and metrics

8. **Financial Statements**
   a. Understand common reports, ratios, and trends
   b. Construct a budget that works
   c. Illustrate positive cash flow and profitability

9. **Executive Summary**
   a. Clarify who we are, what we do, and why we do it
   b. Create a short, historic sketch of your company
   c. Write your mission, vision, and values

**Workshop Instructors**

Larry Troyer; Sugarcreek, OH CFO of ProVia, AF Business Advisor

Leonard Meador; Rossville, IN Business Management Consultant, AF Business Advisor

Registration due by September 20, 2019.

NOTE: This business planning workshop will also be held in Walnut Creek, Ohio, in February 2020. Watch upcoming newsletters for more details.

FOR QUESTIONS CONCERNING ANY OF OUR WORKSHOPS call Dale Savage at 570-261-7203 or email dalesavage@afweb.org.
Anabaptist Financial

TWO-DAY BUSINESS WORKSHOP

Subject: Human Resources

September 17-18, 2019
Das Dutchman Essenhaus, Middlebury, IN
Registration due by August 16, 2019.

November 12-13, 2019
The Wallhouse Hotel, Walnut Creek, Ohio
Registration due by October 16, 2019.

Learn the four fundamental principles of human resources from a Biblical perspective. Topics include:

- Understanding Relationships
- Hiring Effectively
- Developing People
- Evaluating Employees

Workshop Instructors
Doug Ramer; Myerstown, PA
Personnel Manager,
Martin Water & Appliance

Dale Savage; Arcanum, OH
Business Resource Developer,
Anabaptist Financial Stewardship Resources

FOR QUESTIONS CONCERNING ANY OF OUR WORKSHOPS
call Dale Savage at 570-261-7203
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