

BUSINESS Finance

Seven deadly sins of estate planning

MORE THAN MONEY



SID MITTA, PH.D.

Editor's note: This is the first in a series about estate planning.

Estate planning is about dividing your assets according to your wishes and without rancor. Estate-planning experts say that middle- and upper-middle-income individuals don't do that very well. In fact, they tend to jeopardize their plans by committing the same seven deadly sins again and again. In this column, we present the seven sins so that you may avoid them.

1. Doing nothing

More than half of adult Americans do not have will, reports the American Association of Retired Persons. But if you die intestate -- without a will -- your wealth will be carved up according to state law, which may simply divide it among the surviving spouse and children. In a family with three kids, the spouse might get a fourth.

Families with young children experience a special problem because minors cannot directly inherit more than \$1,000 to \$5,000 (the sum varies by state). Any amount above the ceiling will be managed by a financial guardian, with the surviving parent compelled to make an accounting of expenses to the court and to pay hefty legal bills. Parents must have a will to name whom they want to raise their children and to handle the finances, should both parents die.

2. Poor planning

Estate planning involves not only determining who will get your assets after you die -- which is what a will does -- but also planning for your disability, old age and illness. Here are the basic steps to take.

(Draw up a durable power of

attorney, which designates a relative or trusted friend to handle your financial affairs if you become incapacitated.)

If you don't have a close relative or friend, consider setting up a revocable living trust and naming a bank as the trustee. This allows you to be in complete and total control of your finances during your lifetime, but also permits the bank -- a good neutral party -- to step in as trustee should you become ill.

If you have significant assets, be sure you have a good umbrella insurance policy that protects against big liability claims that can wipe out your family's resources.

3. Tax exemption

Each person is allowed to leave \$600,000 for anyone without any estate taxes. It may rise to \$750,000 if the Republicans have their way in Congress.

However, many married couples waste this exemption in the estate of the first spouse to die by simply leaving everything outright to the surviving spouse. Instead, married couples whose combined estates exceed \$600,000 should use a credit shelter trust (also called a bypass trust) in the estate of the first spouse to die.

Under this trust, \$600,000 of assets are held in trust for the benefit of the surviving spouse, who is entitled to all the income earned by the assets for the rest of his/her life. Upon the surviving spouse's death, the assets in the trust pass automatically to named beneficiaries, typically the couple's children. There is no estate tax on the assets in this trust when the surviving spouse dies.

4. Leaving big money to small children

Consider a couple who wants to guarantee that the money left to provide for their young children is kept in adult hands until the kids are teenagers, with funds available to pay for their college education. The par-

ents prepare wills saying that if they both should die, their money should be placed in a trust for the children's benefit, managed by an uncle, until the children reach age 25. Simultaneously, the couple buys two large life insurance policies and make the survivor the beneficiary of the other's policy.

The parents have committed a major error. They forgot that payment of life insurance benefits is dictated by the wording of the policies, not by their will. Their life insurance policies name the other spouse as primary beneficiary and the children as secondary beneficiaries, as is commonly done. If both parents die in an accident, the death benefit will be placed under court guardianship and turned over to the children when they turn 18, which might be too early for them to handle large sums of money. Also, if you name your estate as the secondary beneficiary, your creditors, rather than your children, could get the life insurance money.

5. Life insurance on your own life

The value of the policy will be included in your estate if you own the policy or if you possess incidents of ownership -- the right to borrow against it, cancel it, or name the beneficiary. The result will be estate taxes on the policy.

A viable strategy is to set up an irrevocable life insurance trust to own the policy. As long as the policy is transferred to the trust at least three years prior to death, the proceeds will not be included in your estate.

The best strategy, of course, is to first set up the trust and then have the trust buy the policy. In this case, there is no three-year waiting period. If you plan to pay premiums through the trust, make sure it has a Crummey Power, which will allow gifts to the trust to qualify for the annual gift tax exclusion. This power requires special language in the

trust document giving the beneficiary the right to withdraw contributions to the trust. Without it, your contributions to the trust to cover premiums are treated as taxable gifts.

6. Thinking that asset-protection is only for rich

In our litigious society, people need to protect their assets. If you own a business or have rental property, make sure all the legal documents for these enterprises are in tip-top order. Most are not.

Also consider setting up a limited liability company, a new entity approved by 47 states that combines the advantages of a corporation and partnership and shields your personal assets from lawsuits.

7. Undervaluing estate

Some people simply don't know how wealthy they are, and undercounting can be costly for their heirs. The minimum tax rate on estates over \$600,000 is 37 percent, increasing to a maximum of 55 percent for estates over \$3 million. Only spouses who are U.S. citizens can receive unlimited bequests tax-free.

Appreciated real estate, retirement accounts and life insurance proceeds are the assets most often un- or undercounted. They are all part of your estate unless you have taken steps to remove them. The government views the value of your house as the difference between its market value and the outstanding mortgage.

Next week: The seven best ways to pass your assets to your heirs.

Sid Mitta, Ph.D., CFP, is professor of finance, Oakland University, Rochester, and owner, Mitta & Associates, a Troy financial consulting firm. This column was critically reviewed by Professor Jerold Grozman, Oakland University. You can e-mail questions or comments to SidMitta@smitta.com.

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SEPARATION AND DIVORCE

Pamela Oppner, a financial advisor with Prudential Securities, and Louise Bittker, a family law attorney with Morganroth, Morgenthau, Alexander & Nye, will lead free seminars directed toward women considering separation or divorce at 7 p.m. Tuesday, June 25, at Barnes & Nobles Bookstore at Telegraph and Maple, Bloomfield Township. Bittker will discuss what happens during the legal process. Oppner will cover the financial implications. Reservations are required. Call Prudential Securities, a fully diversified, global securities firm, in West Bloomfield at (810) 737-8455.

AGENTS ASSOCIATION

Joining the Michigan Association of Insurance Agents, a statewide trade association that represents 10,000 independent insurance agents and industry employees, are these local insurance agencies: Finnacle Underwriting Associates Ltd., Troy; The Phoenix Insurance Agency, Farmington Hills; Insurance One Agency Inc., Farmington Hills.

DONOR DIRECT

Southfield-based W.B. Doner & Co. has launched Donor Direct as a freestanding direct marketing agency with offices in Baltimore and Southfield. Donor Direct was formerly the direct marketing division of W.B. Doner but will now be operated as an independent business unit with \$45 million in direct marketing billings and a staff of 30.

SCHWAB REFERRAL

Birmingham-based Independence Advisors Inc. is among the advisory firms participating in Schwab AdvisorSource, a new service from Charles Schwab & Co. It provides individuals who want help investing with an alternative to commissioned brokers. Schwab AdvisorSource provides individuals who have at least \$100,000 to invest with referrals to fee-only investment managers. Independent Advisors, founded in 1993, manages \$65 million for individuals and small company pension plans. Investors interested in meeting managers from Schwab AdvisorSource can call an 800 number where specially trained and licensed representatives interview the callers and provide one or two investment manager

referrals in their local area. The referrals are free of charge; Schwab also provides a free guide to interviewing the investment managers. "It's exciting and an honor to be in this elite group of 400 AdvisorSource firms selected from a pool of 5,000 firms from nationwide that use Schwab to custody client assets," said Tom Post of Independent Advisors.

RELOCATION/NAME CHANGE

VendTek Wholesale Equipment, Inc., formerly the Mid-Atlantic Truck, has moved from Royal Oak to a 6,000-square-foot facility in Wixom. VendTek, founded in 1991, is an exclusive wholesaler of vending equipment representing most major brands. The Wixom facility offers customers two showrooms for viewing of both new and used equipment and a handy parts department for the purchase of parts or repair services. A grand opening is scheduled for Thursday, June 20. Open House will run 6-8 p.m. VendTek Wholesale Equipment is open 8 a.m. to 5 p.m. weekdays. Call (810) 669-COIN.

ONLINE INFORMATION

Spot Metals Online, Inc. has developed a new computer information system designed to assist buyers and sellers of steel in the marketing of steel inventories. The Bloomfield Hills-based company announced that "Spot Steel" network will provide online access to the world's largest database of available steel listings for the purpose of exchanging information and consummating buy/sell transactions.

After five years in research and development, "Spot Steel" is now available to mills, manufacturers, service centers, processors, trading companies and distributors of steel products for immediate communication and mass exposure throughout the network. For more information call (800) 785-3501 or visit its web site at www.spotmetals.com.

STUDIO SERVICE

Grace & Wild Digital studios has announced the addition of a new facility at the teleproduction facility's Farmington Hills headquarters. Captioning is increasing in popularity due to new federal laws and mandates. Virtually all of today's prime-time television programming is closed captioned, benefiting a large hearing-impaired audience and those in noisy environments. Grace & Wild Digital Studios will offer off-line captioning, as well as real-time encoding. Off-line captioning includes all of the program's audio information, including sound effects, such as "birds chirping," and is done using the completed program and script. Real-time encoding is used for live broadcast, such as news programs, sporting events and teleconferences, and

provides an immediate written text response of the actual program audio. For demonstrations and information, call (810) 471-6010 or (800) 451-6010.

SEMCO MEETING

The South Eastern Michigan Computer Organization (SEMCO) will hold its next meeting on Sunday, June 9 at 1 p.m. The meeting location is at Oakland University in the main auditorium of the Dodge Hall of Engineering. A topic of general interest to computer users will be presented. IBM (DOS, Windows and OS/2) and Macintosh Special Interest Group meetings follow the main meeting. Topics of interest to these groups are presented and discussed. Audience questions relating to hardware and software problems and selection are encouraged at these meetings. Door prizes available.

SEMCO is a non profit computer user group oriented to all computer users and enthusiasts from novices to professionals. meetings are held the second Sunday of every month and are open to all at no charge. For further information phone (810) 398-7660 or write SEMCO, P.O. Box 707, Bloomfield Hills 48303-0707.

CHAMPAGNE DINNER

The Michigan Professional Women's Network will hold a Gala Champagne Dinner on June 10 at Mona Lisa Restaurant in Royal Oak to thank its growing membership for a year of networking, programming and volunteering. The Board of Directors extends its thanks by offering a reduced price for the dinner, which will also include the installation of new officers for the 1996-97 season. Cost for members is \$10 and guests \$20. Make check payable to MPWN and mail to: Barb Dyck at 49 Stratford Lane, Rochester 48308 by June 3 or R.S.V.P. to Barb at (810) 585-0545.

NEW AD CAMPAIGN

Kelly Assisted Living will enter their 20th year with a new national cable TV campaign for their home care services. The representation of the difficulties adult children face in caring for their elderly parents is conveyed in a 30-second TV spot entitled, "Phone Tag," created by Michelle Zieve (SMN) Advertising of Troy. The commercial (now airing on CNN, CNBC, TBS, TNT and USA Network) was filmed on location in Toronto and edited at GTN in Oak Park. The commercial was created by the SMK team of: Harvey Gabor (executive vice president, creative director); Lisa Sabo (vice president, associate art director); Kelly Kalla (associate creative director, copy writer); and Joel Blenfield (director of broadcast). Dan Hackett directed the spot, which was produced by Partners Inc. of Canada.

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