Top Ten List Of Estate Planning Misconceptions
or
"Its Not What You Don't Know That Hurts You. It Is What You think You Know But Is Wrong"

1. Estate planning is unpleasant.

   REALITY. There are three aspects to estate planning: (1) preparing the transfer of assets by gift, will and trust, (2) transferring information regarding financial records, medical care and funeral arrangements, and (3) providing substitute decision-making in case of incapacity. Planning for the family's transition is satisfying; leaving them a mess to sort out is unpleasant. How do you want to be remembered? How long does it take you to assemble information for your income taxes, knowing where everything is? How long will it take your family without you to help?

2. I just can't find the time to plan my estate.

   REALITY. Like exercise, you need to find the time. But it doesn't take very much time: the process usually takes two meetings of an hour to an hour and a half each over a period of two weeks depending on how anxious you are to get it done. It needs to be redone only due to changes in law, family, intentions or wealth.

3. Estate planning is expensive.

   REALITY. The cost is about one tenth that of the management fee of an index fund which really provides no management at all, just administration. For husband and wife estates under $600,000, the cost of a plan and Wills should not exceed $1,500 and will typically cost less than $800, about one tenth of 1 %. For husband and wife estates between $600,000 and $1.5M the cost should not exceed $3,000 and will typically cost between $1,500 and $2,500. For husband and wife estates over $1.5M the cost depends on how sophisticated and customized the couple want their plan and documents to be. The difference in the cost is largely in the difference in complexity. The first situation requires wills, Medical Power of Attorney, Medical Directive and Durable Power of Attorney. The second situation will require that a Bypass Trust and Terminable Trust be included in the wills. The third situation may require in addition the preparation of irrevocable trusts such as a life insurance trust or a charitable trust.

4. Estate planning is for wealthy people; I don't have a real **estate**.

   REALITY. Estate planning is first and foremost preparing your family for the transition from having you around. Without clear information and guidance, how is your family to know what to do? Without planning, mistakes are made. Given the emotionally charged situation they will be in, they need as few problems and issues to deal with as possible.

   1. As for estate taxes, assets can add up quickly, particularly if you are the beneficiary of an estate yourself or have substantial life insurance.
   2. Keep in mind that even if you are 65, you have a life expectancy of another 20 years. During that time your estate may double or triple given the power of compounding.

3. Transfer taxes (Estate, Gift and Generation Skipping) are the steepest in the Tax Code (50 - 55%) and some very simple techniques can save very large amounts of money.

5. I have a Will; that is sufficient.
   REALITY. A Will directs only the transfer of probate assets. An estate plan includes the transfer of all of your assets, including those transferred by contract (non-probate assets) such as deposit accounts, investment accounts, retirement accounts and insurance proceeds. These transfers all need to be coordinated in order to obtain the intended result and to maximize the benefits. They also need to anticipate possible tax consequences and funding specific bequests.

6. I should transfer everything to my spouse.
   REALITY. It may be politically correct but if you leave everything to your spouse, you lose the use of your Unified Credit and you may make your spouse's estate large enough to be taxable. The solution is to transfer part of your estate to a Bypass or Credit Shelter Trust. Typically, your spouse will be both the trustee and the beneficiary, with access to both the income and principal on specified criteria.

7. A revocable trust will reduce estate taxes.
   REALITY. A revocable trust does not reduce estate taxes. The assets in the trust continue to be part of the taxable estate because the grantor continues to benefit from them and control them. A revocable trust provides an alternative to a durable power of attorney and guardianship for management of assets, and it avoids probate of the assets. It affects, however, only those assets transferred to it. If there are other probate assets, a revocable trust may not avoid the need for a probate proceeding. A probate proceeding is not a high profile, expensive process. The utility of a revocable trust is far greater in jurisdictions other than Texas.

8. What a lawyer told me in State X is the law (applicable in Texas.)
   REALITY. Laws vary significantly from state to state, and no areas of law are more idiosyncratic than property and probate law.

9. I own life insurance but the proceeds won't be included in my taxable estate because someone else is the beneficiary.
   REALITY. If you own a life insurance policy on your life, the death benefit (proceeds) will be part of your taxable estate, even if someone else is the beneficiary. Life insurance proceeds can go a long way toward making an estate taxable. The solution is an irrevocable life insurance trust.

10. My estate is the best beneficiary of my IRA.
   REALITY. The benefit of a traditional IRA is the tax-free compounding that occurs in the account. The benefit is greater the slower the account is distributed. If any beneficiary of an IRA is not a person, it is as if there were no designated beneficiary. In that case, if distributions had not begun, the IRA must be distributed within 5 years. If distributions had begun and the participant was using the term certain calculation method, the IRA must be distributed within the remaining distribution period, which was the life expectancy of the participant. If distributions had begun and the participant was using the re-calculation method,

the IRA must be distributed within a year. If the spouse had been the beneficiary, a rollover into the spouse's IRA would have been possible. If a child (or children) had been the beneficiary the distribution period could have been extended over the life expectancy of the child.