Why Is Estate Planning So Important?

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‘Tis the season! It’s that time when we look back on everything we accomplished or failed to accomplish over the past year and, at least for some of us, resolve to do better. Lose weight, get in shape, declutter, get organized, and plan for our own death or loss of sufficient mental or physical capacity to make decisions or care for ourselves. Admittedly, this last one, “estate planning,” as some lawyers no doubt euphemistically dubbed this general category, is a perennial dark horse in the “most likely to top the list of year-end resolutions” category. Excuses range from “I don’t have enough to need an estate plan” to “I’m never gonna die” to “I’ll be dead, so it won’t be my problem.” Not much, if anything, can be done for the ones with delusions of infallibility or those truly relishing the idea of looking back from beyond the grave, eating popcorn and enjoying the misery left in their wake. Undecided? Unconvinced? You’ve got questions, and I have some answers…

Q: Why should I care about estate planning?

A: Estate planning is essential for ensuring that your assets and personal wishes are properly carried out after you’re gone. Creating and regularly updating a personalized plan unique to your life circumstances is not just about redistributing wealth after you pass away—it’s about protecting your family, minimizing tax burdens (!), and avoiding legal confusion. Without a clear plan, the state decides what happens to your property, which often results in costly, but otherwise avoidable, legal disputes, delays, and unintended results.

Q: What’s the biggest mistake people make with estate planning?

A: The biggest mistake is simply not planning at all. Last year, I shared my list of the top five estate planning mistakes that I see in my litigation practice (when my clients are routinely forced to dispute and/or litigate over an unintended and unforeseen aftermath). The number one takeaway remains as obvious today as it was last year (and the year before that!) -- failing to plan is the most costly mistake you can make. Failing to plan (or to update an existing plan) leaves your family and loved ones vulnerable and can complicate things emotionally and financially during an already difficult time.

Q: Do I really need an estate plan if I’m young and healthy?

A: Absolutely! Estate planning isn’t just for the elderly or those with significant wealth—it’s for anyone who wants to make sure their wishes are carried out after they’re gone. We may want to believe we’re infallible and will live forever. Unfortunately, life is unpredictable, and having a plan in place provides peace of mind, ensuring that your family is taken care of no matter what happens. My first boss after college taught me to plan for tomorrow as if the person upon which you are depending tragically gets hit by a bus tonight. It was admittedly a dark life lesson (thank his lifetime of military service!), but he wasn’t wrong to suggest we never know what “bus” might be looming around the next corner.

Q: Is estate planning a one-time thing?

A: Estate planning should be an ongoing process. Life changes—marriage, having kids, career changes, etc.—are all good reasons to review and update your estate plan regularly. A plan that's right for you now may be completely unsuitable for you when life changes happen . . . and they do happen! So it's important to revisit your plan regularly as your life evolves.

Q: How does one get started with estate planning?

A: Start by consulting with an experienced estate planning attorney who can guide you through the process. I'm not an estate planner myself, but I am fortunate to work with some incredibly talented individuals (in whom my wife and I have entrusted our own planning needs!). I'll be happy to provide a threshold assessment and introduce you to a colleague with whom I believe you'd be a good match. From there, you will work to outline your goals, create a will, set up a trust, and/or designate "attorneys in fact" to protect your interests and exercise authority as you deem appropriate under powers of attorney. Proper estate planning benefits your loved ones and you both now and after your gone. The key is not to wait—resolve to take action today to protect your future and your loved ones.

I have a client who travels a fair amount, and for years now has joked how I'm the last person he thinks of as his plane is about to takeoff as he is again reminded that he hasn't done his estate plan. Trust me when I say the money you spend (and don't short-shrift the old adage "you get what you pay for!") will repay itself multiple times over for your family when the time comes. Do yourself and your loved ones a favor. Give yourself and them some added peace of mind. Don't just resolve to plan…just do it.