

# Planning Report

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*This newsletter is not intended, and should not be used as, a substitute for legal advice.*



## Top Ten Estate Planning Mistakes:

While it is not a pleasant task, estate planning is necessary to effectively and efficiently transfer your assets to your heirs. Common estate planning mistakes to be aware of are listed below:

1. **Not getting around to it.** The most common mistake is not getting around to estate planning.
2. **Believing the myth that estate planning is only for the wealthy.** Estate planning is important for everyone who is concerned about where their assets will end up. People are often surprised to find that their "estates" are larger than they thought when they remember to include the value of their home.
3. **Not reviewing or updating your will or trust.** Birth, adoption, divorce, death, and other factors may change the beneficiaries and directions.
4. **Not investigating tax avoidance strategies.** There are several ways to minimize or even avoid paying estate taxes.
5. **Failing to provide all information regarding assets and documents.** Having your documents in order is useless if no one can find them. Someone you trust needs to know where your assets and important documents are kept.
6. **Leaving everything to your spouse.** The government offers an estate tax credit. Under certain conditions, leaving everything to your spouse sacrifices their share of this benefit, depending on the size of the estate.
7. **Not accounting for jointly owned assets.** Your will or trust may not always direct where all of your assets will go. Bank accounts, retirement plans, real estate and IRAs can be cosigned, and will belong to the cosigner upon your passing.
8. **Not planning for your children.** While people typically mull over their assets, they forget that guardianship of minor children is an important consideration and decision.
9. **Improper naming of beneficiaries on life insurance.** Life insurance in the name of the insured can result in the payment of an estate tax, which can be avoided by naming other beneficiaries.
10. **Not using a gifting plan.** The I.R.S. Code allows gifting, tax free, up to \$12,000 annually, to as many individuals as you elect. Many people with significant estates do not use this as a means of giving away some of their assets tax-free to family members.

*For more information or for help with estate planning, please contact an attorney at Austgen Kuiper & Associates, P.C.*



## LEGAL NEWS

*In re Estate of Wheat*, 858 N.E.2d 175 (Ind. App. 2006); the trial court ordered the beneficiaries of the estate to return overpayment amounts mistakenly sent to them because of the Personal Representative's (PR) miscalculations. The Court further ordered the PR and her husband to pay an inheritance tax, plus penalty and interest, on accounts that they had held jointly with the deceased at the time of her death. The court held that the trial court's order on the inheritance tax had not been barred by the 90-day limitation set by I.C. § 33-23-2-4, because it only applied when a final judgment had been entered and the estate had been closed. The court found that to the extent that the PR's negligence caused the estate to incur penalties, Ind. Code § 29-1-16-1 supported an assessment of the losses against the PR.