

TOP 10 ESTATE PLANNING MISTAKES IN MICHIGAN (AND HOW TO AVOID THEM)



ESTATE PLANNING
&
ELDER LAW SERVICES

ESTATE PLAN

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Disclaimer:

This eBook is for informational purposes only and does not constitute legal advice. For advice specific to your situation, consult a qualified attorney.

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INTRODUCTION

Estate planning is a vital process for Michigan residents who wish to protect their assets, provide for their loved ones, and ensure their wishes are honored. However, even the most well-intentioned individuals can make costly mistakes that undermine their objectives. This eBook identifies the top 10 estate planning mistakes in Michigan and offers practical guidance to help you avoid them.

ESTATE PLANNING

MISTAKE #1:

FAILING TO CREATE AN ESTATE PLAN

One of the most common and consequential mistakes is simply failing to create an estate plan. Many people assume that estate planning is only necessary for the wealthy or elderly, but in reality, anyone who owns property, has minor children, or wishes to direct the distribution of their assets should have a plan in place. Without an estate plan, Michigan's intestacy laws will determine how your assets are distributed, which may not reflect your wishes. This can also lead to family disputes and unnecessary legal expenses. To avoid this mistake, it is important to begin estate planning as soon as you acquire assets or have dependents, and to ensure that you have essential documents such as a will, trust, and powers of attorney.



ESTATE PLANNING

MISTAKE #2:

NOT UPDATING YOUR ESTATE PLAN

Another frequent error is neglecting to update your estate plan as your life circumstances change. Major life events such as marriage, divorce, the birth or adoption of children, changes in financial circumstances, or the death of a beneficiary or fiduciary can render your plan outdated or ineffective. If your estate plan is not kept current, you risk unintended beneficiaries, outdated fiduciary appointments, or overlooked assets. Regularly reviewing your estate plan—ideally every three to five years or after significant life events—and updating documents and beneficiary designations as needed is essential to ensure your plan remains effective.



MISTAKE #3:

OVERLOOKING MICHIGAN-SPECIFIC LAWS

Estate planning is governed by state law, and Michigan has unique statutes that affect probate, spousal rights, and homestead protections. For example, Michigan's Estates and Protected Individuals Code (EPIC) governs the administration of estates and the rights of surviving spouses and children. Failing to account for these laws can result in unintended distributions or legal challenges. It is crucial to work with a Michigan-based attorney who is familiar with local statutes and procedures, and to ensure your documents comply with Michigan law, including proper execution and witnessing requirements.



MISTAKE #4:

IGNORING THE IMPORTANCE OF POWERS OF ATTORNEY

Many individuals overlook the importance of executing powers of attorney for financial and healthcare matters. Without these documents, your loved ones may be forced to seek court-appointed guardianship or conservatorship if you become incapacitated, which can be time-consuming, costly, and emotionally taxing. To prevent this, you should execute a Durable Power of Attorney for financial matters and a Patient Advocate Designation (Michigan's term for a healthcare power of attorney), clearly specifying your wishes and appointing trusted individuals to act on your behalf.

Beneficiary

MISTAKE #5:

IMPROPER BENEFICIARY DESIGNATIONS

Improper or outdated beneficiary designations are a common source of estate planning problems. Assets such as life insurance policies, retirement accounts, and payable-on-death (POD) accounts pass directly to named beneficiaries, regardless of the terms of your will or trust. Failing to update these designations, or naming inappropriate or minor beneficiaries, can lead to disputes, unintended distributions, or court intervention. It is important to regularly review and update beneficiary designations, especially after major life events, and to coordinate these choices with your overall estate plan to ensure consistency and avoid conflicts.



MISTAKE #6:

NOT PLANNING FOR INCAPACITY

Estate planning is not solely about distributing assets after death; it also addresses who will manage your affairs if you become incapacitated. If you do not plan for incapacity, your family may face delays and legal hurdles in obtaining authority to act on your behalf. Including incapacity planning in your estate documents, such as a revocable living trust and powers of attorney, and appointing trusted individuals to manage your financial and healthcare decisions, is essential to ensure your affairs are handled smoothly if you are unable to do so yourself.



DIGITAL ASSETS

MISTAKE #7:

NEGLECTING DIGITAL ASSETS

In today's digital age, many people overlook the importance of including digital assets in their estate plans. Digital assets—including online bank accounts, social media profiles, email accounts, and digital currencies—can be difficult for fiduciaries to access without clear instructions. Without proper planning, your fiduciaries may be unable to manage or transfer these assets, potentially resulting in loss of value or privacy concerns. To address this, create an inventory of your digital assets, provide secure access instructions, and authorize a trusted individual to manage your digital assets in your estate plan, ensuring compliance with the Michigan Fiduciary Access to Digital Assets Act.



MISTAKE #8:

UNDERESTIMATING PROBATE AND ITS CONSEQUENCES

Many individuals underestimate the impact of probate, which is the court-supervised process of administering a decedent's estate. In Michigan, probate can be time-consuming, costly, and public. Failing to plan for probate can result in unnecessary delays and expenses for your heirs. To minimize assets subject to probate, consider using revocable living trusts, joint ownership, and beneficiary designations, and understand which assets are exempt from probate under Michigan law, such as jointly held property and certain retirement accounts.



MISTAKE #9:

FAILING TO CONSIDER TAX IMPLICATIONS

While Michigan does not impose a state estate or inheritance tax, federal estate and income taxes may still apply, particularly for larger estates or certain types of assets. Failing to consider tax implications can result in a reduced inheritance for your beneficiaries. It is important to consult with an attorney or tax advisor to understand potential tax liabilities and to employ tax-efficient strategies, such as lifetime gifting, charitable donations, or the use of trusts, to minimize tax exposure.



MISTAKE #10:

DIY ESTATE PLANNING WITHOUT LEGAL GUIDANCE

Finally, many individuals attempt to use online forms or do-it-yourself kits for estate planning, which often do not comply with Michigan law or address unique personal circumstances. Common pitfalls include improper execution, failure to address all assets, and lack of coordination between documents. These errors can lead to invalid documents, unintended distributions, and costly legal disputes. Engaging a qualified Michigan estate planning attorney to draft and review your documents, and ensuring all documents are properly executed and witnessed according to Michigan requirements, is the best way to avoid these issues.