



Serving Clients Throughout Central Florida

FIVE ESTATE BLUNDERS

Quick. When you hear the words *estate planning*, what mental images do you see? Do you see beautiful, tanned people with incredible wealth, living in enormous mansions, riding in shiny limousines and boarding private jets bound for exotic destinations? If so, then you are only partially correct. In reality, everyone has an estate worth planning.



Some are just more complex than others. In this article we will review five basic estate blunders common to princes and to paupers alike, from Wall Street to Main Street.

#1 Incapacity Issues

On your 18th birthday you are considered an adult American citizen and you become responsible for your own personal, health care and financial decisions. Even your parents become strangers to you, in a legal sense, should you become incapacitated. This same *legal strangerhood* applies, by the way, between spouses.

As a result, every adult American, married or single, must appoint agents through proper *Durable Powers Of Attorney* to make their personal, health care and financial decisions in the event of their incapacity. Alternatively, a court process involving at least three lawyers will be required to appoint agents to make such decisions for you under the ongoing supervision of the court. And this can be rather expensive and invasive of your privacy.

#2 Minor Children Matters

Silver and gold aside, if you are blessed with children, then they

INSIDE

Proper estate planning is not just for the rich and famous. Surprisingly, however, that is a common misconception. Every adult American has an estate worth planning, regardless of their net worth. In this article we review some critical concerns and plans.

Our page three article considers the subject of *Family Feuds* resulting from an inheritance, or lack thereof. Your family may not resemble the Hatfields and the McCoys, but family disharmony can be avoided through proper planning (and communication).

are your most valuable assets ... even if you feel like trading them for S & H Green Stamps at times. If your minor children were orphaned, who would rear them to adulthood and impart your morals and values to them? In some states, only through a *Last Will & Testament* can you appoint the appropriate guardians (e.g., back-up parents) for your minor children. Alternatively, in those states a court process would be required to appoint them. This court process is not only expensive and public, but the court may not appoint the same parties you would have selected.

continued on page 2

continued from page 1

#3 Death & Taxes

Death is a 100 percent certainty. When it comes to transferring your earthly possessions upon your death, you can either make it easy on your loved ones through proper estate planning, or you can leave it up to the court system by default. Prior planning is, without fail, the more efficient and effective option. There are a variety of planning methods to accomplish this transfer. For example, Revocable Living Trusts are commonly used to transfer assets post-mortem, independent of the legal system in many states.

Benjamin Franklin astutely observed that the only two certainties in life are *Death & Taxes*. It is settled law that no taxpayer should pay more than his or her fair share in taxes. That said, proper estate planning can save hundreds of thousands of dollars from unnecessary federal estate taxes. If you are married, is your estate plan taking full advantage of your available estate tax exemption through a combination Credit Shelter/ QTIP Marital Trust? The current "portability" rules are due to



expire on December 31, 2012. Accordingly, it is prudent to plan for an estate tax planning environment without them.

#4 Inheritance Risks

No one values the worth of a dollar like the person who earned it and paid taxes on it. Have you arranged your estate to impart your work ethic to the next generation and beyond? Careful consideration should be given, therefore, to protecting and preserving an inheritance through one or more Long-Term Discretionary Trusts for your loved

ones. Properly structured, such trusts will protect and preserve an inheritance for generations to come from squandering, divorces, lawsuits or bankruptcies.

#5 Procrastination Perils

It's never easy to face the issues of our own mortality; so many adult Americans keep procrastinating. They lack even a basic will, or they have outdated plans that no longer meet their needs. As a result, these otherwise responsible adult Americans may leave a legacy of unnecessary pain and conflict for their loved ones.



Ask Yourself ...

These Questions Regarding "Five Estate Blunders."

- | | | | |
|--|-----|----|----------|
| 1. I have made proper estate plans to appoint someone of my own selection to make my personal, health care and financial decisions should I ever become incapacitated. | Yes | No | Not Sure |
| 2. I have made proper estate plans to appoint back-up parents for my minor children in the event they ever become orphans. | Yes | No | Not Sure |
| 3. I have made proper estate plans to protect any inheritance for my children from squandering, divorces, lawsuits or bankruptcies. | Yes | No | Not Sure |
| 4. I have made proper estate plans to minimize court control over my assets at death and to legally disinherit the IRS. | Yes | No | Not Sure |
| 5. I have made arrangements to consult with qualified legal counsel to create an appropriate estate plan for my unique circumstances or to update my existing estate plan. | Yes | No | Not Sure |

FAMILY FEUDS

The bloody feud between the Hatfields and the McCoy's ended well over a century ago, spanned two decades and resulted in a dozen deaths in and around the Appalachian area of eastern Kentucky. This famous *inter-family* feud had all of the elements of a Hollywood drama.

While the Hatfields and the McCoy's may have settled their differences long ago, *intra-family* feuds are rather common these days following the death of a family member. That fact was confirmed in a survey conducted by the AARP/Scudder Investment Program (the survey) of Americans age 50 and over. According to the survey, 20 percent of the respondents cited problems among surviving family members due to their inheritance, or lack thereof. More often than not, these feuds are over tangible personal property and family business interests.

Tangible Personal Property

The survey made an interesting discovery: Cash is the most prized asset over which family members fight, but tangible personal property (e.g., antiques and heirloom jewelry) came in a close second. In fact, respondents reported that such property accounts for 47 percent of the feuds, followed by personal residences at 43 percent, other real estate at 31 percent and other investments at 11 percent. Fortunately, the laws of most states provide a flexible solution for the specific distribution of tangible personal property.

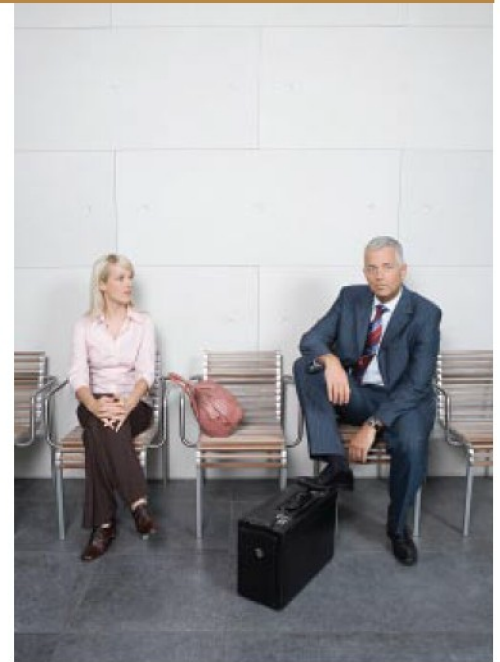
As part of your estate planning, find out whether your state authorizes a separate writing to be made on which you may list the specific items and who is to receive them. In most instances, this writing may be handwritten, but it must be signed and *incorporated by reference* within the estate planning legal documents

themselves. A little time spent preparing this writing now as part of your overall planning can help thwart problems later.

Family Business Interests

Did you know 90 percent of all U.S. businesses are family-owned or family-controlled? They represent one-third of the elite Fortune 500, generate one-half of the U.S. Gross National Product and pay half of the total wages earned in this country. Despite all of this a mere one-third survive their founders. Although federal estate taxes can be blamed for part of this dismal survival record, family feuds are as likely the culprit.

For example, will your surviving spouse continue the business or will they sell it? Who will buy it? Will any of your children take over the reins and, if so, will they buy it or inherit it? If they inherit it, how will the inheritance of your other children be equalized? Are there any in-laws who could become out-laws, just to stir up



trouble? In short, intra-family issues that can cause a family business to run aground. Only by carefully coordinating your personal estate planning with your business succession planning can these issues be resolved before they arise.

Not surprisingly, the survey found that of the respondents reporting *no conflicts* over an inheritance, 63 percent said they had known what to expect ahead of time, with 82 percent believing their inheritance was fair.

POCKET PROTECTORS

Tips to help you protect your pocket!

Identity Theft Help

According to the Federal Trade Commission's *Consumer Sentinel Complaint Count*, identity theft complaints rose from just over 30,000 to more than 300,000 from 2002 to 2008. Identity theft occurs when a criminal obtains access to your personal information and then uses that information to obtain goods, services, credit and even commit crimes using your identity. The imposter makes out like a bandit and you are left financially ruined ... or, even under criminal investigation. As information technology advances, so does the risk of identity theft.

The Identity Theft Resource Center (ITRC) is a nationwide nonprofit organization dedicated to *helping people prevent and recover from identity theft*. For more information call the Center at (858) 693-7935 or visit their Web site at www.idtheftcenter.org. The ITRC is affiliated with the Privacy Rights Clearinghouse, which as its name suggests, is concerned with myriad privacy issues. For more information call the Clearinghouse at (619) 298-3396 or visit their Web site at www.privacyrights.org.

“Never say you know a man until you have divided an inheritance with him.”

– Johann Kaspar Lavater

**VINCENT J. PROFACI, ESQ.
VINCENT J. PROFACI, P.A.
932 CENTRE CIRCLE, SUITE 1000
ALTAMONTE SPRINGS, FL 32714**

Note: Nothing in this publication is intended or written to be used, and cannot be used by any person for the purpose of avoiding tax penalties regarding any transactions or matters addressed herein. You should always seek advice from independent tax advisors regarding the same. [See IRS Circular 230.]
© 2011 Integrity Marketing Solutions



**VINCENT J. PROFACI, ESQ.
VINCENT J. PROFACI, P.A.
932 CENTRE CIRCLE, SUITE 1000
ALTAMONTE SPRINGS, FL 32714**

**Tel: (407) 673-1144
Fax: (407) 673-0999
vince@profacilaw.com**

**<http://www.profacilaw.com>
<http://blog.profacilaw.com>**

Law Office of Vincent J. Profaci, P.A. Serving Clients Throughout Central Florida

In this ever-changing world, it can be difficult to predict the future. Fortunately, there are many steps that you may be able to take to protect your family or your business from unnecessary harm stemming from unforeseen events. With the guidance of an experienced lawyer, these steps can help you gain peace of mind in knowing that your family or your business will be protected throughout any contingency.

At the Law Office of Vincent J. Profaci, P.A., we understand how difficult it can be to resolve complex legal issues relating to the well-being of your family or business. With more than 20 years of experience and a detailed knowledge of many legal practice areas, our attorney works to provide the detailed and personalized advice you need to address your unique concerns and pursue the most favorable resolutions possible.

We encourage you to learn more about our attorney and firm by visiting the Web site <http://www.profacilaw.com> where you will have access to newsletter archives, a free subscription and a link to the Profaci Law Blog, located at <http://blog.profacilaw.com>.