Planning awareness: Don't fall victim to these common myths

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This article is geared toward helping you better understand common estate planning myths. Left unaddressed, these myths can create serious trouble for your loved ones, often leading to intrafamily conflict, permanently damaged relationships, and lengthy and expensive court battles.

Myth one: I did my estate plan a couple of years ago. I'm good.

Life moves quickly, and even a couple of years can make a significant impact on the effectiveness of your estate plan.

- Children can get married and have children of their own.
- Your relationships with your chosen fiduciaries or beneficiaries can change or become complicated.
- Your beneficiaries can develop harmful addictions, marry financially exploitative spouses, or run into financial difficulties of their own.
- Your spouse could die or you could get divorced.
- The amount and types of property that you own can change.
- Changes in the law can cause your estate plan to have unintended tax or other consequences.

Beyond the considerations above, a well-rounded estate plan requires that certain issues be periodically be addressed.

- If you have a trust, have you funded it? Funding your trust means you have coordinated the ownership and beneficiary designations of your accounts and property to work with the trust. For real estate, a deed must have been recorded in the registry of deeds in the county where the property is located. Bank and brokerage accounts will only be controlled by your trust if they are either titled in the name of the trust or if the trust is named as a beneficiary.
- Have you checked the beneficiary designations on your retirement accounts and insurance policies to make sure they name the correct people or your trust? Are you aware of the tax ramifications associated with your choice of beneficiaries?

Myth two: Avoiding taxes is the only reason to create an estate plan.

Most Americans do not need to worry about estate taxes. However, tax avoidance is only one of many goals of estate planning, and it is often not the most important goal. For example, planning for the orderly passing of your treasured heirlooms to avoid family discord may be far more important than tax planning in the long run. Alternatively, you may have children who are struggling financially or with substance abuse challenges, are in a rocky marriage, or work in high-liability professions. As a result, it may be crucial for you to ensure that whatever inheritance is left to those children is protected from loss to lawsuits, creditors, or divorcing spouses.

Myth three: A will avoids probate.

This is simply not true. For a will to be effective after your death, it must be submitted to the court to prove its validity and for the court to approve the distribution of your money and property. Only after the probate process has been completed, can the executor distribute your assets. People often confuse the benefits of a will with those of a trust. Trusts can avoid probate, if drafted and funded correctly.