

## The Six Most Common Estate Planning Myths

**MYTH # 1:** Estate planning is just for the wealthy. An estate is comprised of everything you own: your car, home, other real estate, checking and savings accounts, investments, life insurance, furniture, personal possessions, etc. No matter how large or how modest, everyone has an estate and everyone has certain responsibilities that do not end with death or incapacitation. Moreover, mortality does not discriminate and dictates that we all must consider not only our assets, but our personal business affairs, custody of children, and health care decisions if we become incapacitated. As such, estate planning is the process of you becoming aware of these problems and strategically employing tools that mitigating the risks such as making sure that your finances are taken care of if you're incapacitated, that decisions about your health care are carried out the way you'd like even if you're not able to make them, and that your children and other heirs are taken care of when that time eventually comes. Estate planning is for anyone who may become seriously ill or pass away. In other words, it's for everyone. I can tell you affirmatively that by far the majority of catastrophic injury, brain damage, and death cases that Compton Law attorneys have handled are middle income and middle aged common everyday people.

**MYTH # 2:** I'm too young for estate planning. As addressed in Myth 1. We never know when we might need estate planning and if delayed, it will be too late. Being the father of a young daughter, I personally feel that middle aged, middle income families with young children are most a risk and should all have a properly prepared and comprehensive estate plan.

**MYTH # 3:** I have a Will so my family will not go through the probate process. A Will is simply a document that tells people who you want to have your stuff (assets) when your pass. If you don't have this tool, the state law dictates how your assets will be distributed. It is a crucial tool that identifies the person(s) who will handle your estate and care for any minors, and it avoids the problematic and often times disliked results of those state laws. However, if your estate contains certain assets, (common forms are: house, land, minerals, insurance policies with no or improper beneficiaries) those assets must go through the probate process. Here, the Will is presented to the Court and your plan and wishes will drive the distribution of assets and guardian of minors.

Because the Estate will be probated even if there is a Will, many people and families greatly benefit from a revocable living trust. Which brings us to Myth 4.

**MYTH # 4:** My assets are too minimal to set up a Trust. As previously mentioned, certain assets must go through the probate process to change title from you to your heirs. As long as the trust is established and funded properly, it can avoid probate, (including multiple probates if you own property in other states), prevent court control of assets at incapacity, bring all of your assets (even those with beneficiary designations) together into one plan, provide maximum privacy and ease, and can be easily changed at any time. It can also protect your family and future generations.

Unlike a will, assets can stay in your trust, managed by the trustee you selected, until your beneficiaries reach the age or occurrence you want them to inherit. Your trust can continue longer

to provide for a loved one with special needs, or to protect the assets from beneficiaries' creditors, spouses, and irresponsible spending. Often, establishing a trust is far more simple and cost effective as compared to the probate process. Sometimes the savings can mean the difference between the assets and funds of a modest estate being allocated to probate cost and fees or to your heirs and family.

**MYTH # 5:** The Revocable Living Trusts avoids Creditors. A revocable living trust is a fascinating tool that provides many great benefits. But it is not a tool that may be utilized to hide assets, avoid creditors, or avoid lawsuits.

**MYTH # 6:** My mother has a durable power of attorney naming me as the authorized person so I can access, take control, and administer her estate and accounts after her death. A durable power of attorney is another fascinating tool that allows and authorizes one person (me) to legally conduct certain business for another (mother). The terms of this tool can be modified to allow the authorized person (me) to act either immediately or upon mother's incapacitation. Unfortunately, the power of attorney ends with the mother's death and so does any authorized powers. The person who then handles the estate and accounts will be the one appointed by the court in the probate process or the trustee if mother created a trust.

As you can see, there are lots of misconceptions about estate planning. This misconception is primarily derived because these issues can be complex, constantly changing, and removed from our everyday lives. Knowing the truth about these myths and being well informed can help you avoid numerous mistakes.

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