

10 Reasons to Review Your Estate Plan With an Attorney

- 1. Outdated Estate Tax Provisions.** This is one of the most common issues we see. Plans that were not updated since 2011 often contain “credit-shelter” trust provisions that will now actually cost your loved ones money instead of save it.
- 2. Living Trust Isn’t Funded.** A revocable living trust will not avoid probate if it does not own your assets at the time of your death. Don’t leave an unpleasant surprise for your spouse or children; ensure that appropriate assets are owned by your living trust during your lifetime or payable to designated individuals or to your trust at your death.
- 3. Beneficiary Designations Aren’t Correct.** Beneficiary designations for life insurance, annuities and retirement accounts need to be properly coordinated with your overall plan. These designations trump any provisions included in a will, regardless if a will was updated more recently. Failure to update designations could cost thousands of dollars in extra income tax and probate fees.
- 4. Lack of Any Asset Protection.** Most plans do not address protection against lawsuits, divorce, etc. Use of protective trusts, limited liability companies, and other techniques can protect your hard-earned assets for you and your loved ones.
- 5. No HIPAA Authorization.** Without an Authorization for Use and Disclosure of Protected Health Care Information, your spouse, children, parents and others could be left in the dark about your health care.
- 6. Vulnerable Beneficiaries.** Does your plan properly address elderly or disabled beneficiaries? Including special needs trust provisions can help to protect against disqualification for governmental benefits and ensure a loved one in need is provided for long after you’re gone.
- 7. Fiduciaries.** Are all of the executors, trustees, and agents in powers of attorney still willing and able to serve? Making substitutions now can save a lot of time, trouble and money if you die or become disabled and can’t make such changes in the future.
- 8. Form or Re-establish a Relationship with an Estate Planning Attorney.** While one can get many legal documents online now (these affordable documents can cause costly problems), there is no substitute for the advice and counsel of an experienced expert in estate planning. We can help with all sorts of matters related to your estate plan, provide referrals to other professionals, help with probate and trust administration, tax issues, and otherwise.
- 9. No Estate Plan.** If you don’t have a plan in place, you should make it a priority to establish one soon. Virtually every adult should have at least a Will, Durable Power of Attorney, Health Care Power of Attorney, and HIPAA Authorization. Without these documents, you and your loved ones will have very little choice in how your affairs are handled, whether during incapacity or upon death. State law will control all matters, likely creating delays, complexity, expenses, and compromising privacy.
- 10. A “Clunker” Plan?** Just like with cars, estate plans become less valuable, functional and useful over time. I can pretty much guarantee that if your plan is more than 10 years old, you are missing key provisions addressing things like “stretching” of IRAs, “step-up” in basis, flexible trustee removal and replacement, trust protectors, and power to manage digital assets. Also, trying to create or update estate planning documents yourself is akin to working on your own car – sometimes a simple fix comes out okay, but to make sure your care works reliably and safely, the services of a skilled specialist are required. Virtually every self-prepared or Internet will we see misses key provisions that could end up costing thousands of dollars. One example is a simple trust provision for minor children; this avoids the need for a rigid and expensive court-administered guardianship.