

Why an Estate Planning Review

Most people hate reviewing their estate plans, and I can't say I blame them. From tax law and complex documents, to trusts and health care directives, the intricacies can be daunting. Plus, talking about life after death isn't anyone's favorite activity.

Unfortunately, these common stressors often prevent people from revisiting their plan once it's been drafted, creating the potential for substantial gaps that could dramatically affect how assets are distributed down the line.

Here are some red flags that can indicate a problem with your estate plan:

1. **Missing components:** At a minimum, clients should have a will, a financial power of attorney and an advanced medical directive that have been reviewed by an attorney within the last 10 years and subsequent to any major life event. Documents should be reviewed with Attorney periodically including any tax law changes, family dynamic changes and/or net worth changes.
2. **Beneficiaries and Executors have not been updated:** You may have new beneficiaries you wish to add, such as grandchildren, or beneficiaries you wish to remove, since you established your estate plan. Many times, parents and grandparents want to ensure that assets are held in trust until grandchildren have reached certain ages, but their plan may distribute assets outright, perhaps against their current wishes.

The same thinking should be applied to the executor of your will. If your will lists an individual who has died, or is unable to serve, and no successors are named — the court will appoint someone else. Oftentimes, this will be a beneficiary, making it even more imperative to keep beneficiaries current.

3. **Plans have not been made:** Leaving it to beneficiaries to determine the ownership of personal items, like jewelry and family heirlooms, can cause a tremendous amount of family discord. It's easy to divide an investment account, but it's not as easy to split an engagement ring.

If you do not spell out who should get your personal items when you die, you may unintentionally leave your loved ones with a host of difficult decisions to make, which can put unnecessary stress on family relationships.



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4. **Life Insurance policies have not been reviewed:** Many retirees own life insurance policies that haven't been reviewed since they were originally executed. It's vitally important that you review them, to ensure they will perform as you intend them to. Oftentimes, when you review the details of your policies, you find that liabilities have crept into your situation, and that there are many opportunities for improvement.

One of the most common issues people run into with a neglected policy is that it has not been funded properly and has lapsed, which typically requires a hefty premium to keep it in force.

5. **You've named a close family member or friend as a trustee:** This is one of the most common mistakes we find individuals and couples make when planning their estate. People often name a family member or close friend as a trustee, but most of the time, these individuals are completely unaware of what being a trustee means, let alone the fiduciary responsibilities that come with the role. In reality, it's a huge burden to place on someone you care about.

As an alternative, consider appointing a third-party representative, like a bank or a trust company, to serve as trustee. This will ensure that your assets will be managed according to your directives and will remove the possibility of putting a friend or family member in a tough situation.

6. **Plan does not reflect new tax laws:** Since 2008, the estate tax exemption has more than quintupled (from \$2 million to \$11.18 million for individuals). If you have significant wealth, this creates a unique planning opportunity that you may not be aware of. Many estate plans were designed prior to these rather significant changes to the tax code and often, the outdated structure causes more harm than good.

7. **You've Moved:** Every state has different laws that govern estate planning. If you move from one state to another, it's critical to have an attorney who is familiar with that specific state's laws revise your documents to ensure they are compliant with your state of primary residence.

If you own property in multiple states, your executor will have to go through the probate process in every state in which you own property. In these cases, we often guide placing ownership rights to those properties in a revocable living trust, as it generally averts the probate process and the costs/time associated with it.

Medical powers of attorney and other advance directives executed in a previous state may also be ruled invalid in your new state of residence, depending on the state.

Consider having The Popovich Financial Group take a deeper look into your current Estate Plan.

