

Estate Planning Checklists Help To Protect Heirs

In the past, reducing estate taxes was often the most important goal of estate plans. However, today very few estates will owe estate taxes.

Today's primary focus will be on various non-tax goals of the estate plan. The plan will determine who receives your property after you pass away, what they receive and how they receive it (i.e. outright vs. in trust). The plan will often cover not only major financial assets but also who receives items that have sentimental or emotional value. These assets often are the source of bitter and long-lasting family disputes, so thoughtful consideration should be given to how these sentimental items are allocated in an estate plan. The plan will also determine how much of an estate goes through the probate process. Probate can be time consuming and expensive, depending on the state in which you reside. There are several ways to minimize or avoid probate, so you might want to consider including some of those methods in your plan. Some assets avoid probate and aren't controlled by your Will. These assets include retirement plan accounts and life insurance that pass via beneficiary designation forms and jointly held property. It is critical that your estate plan coordinate these non-probate assets with your overall estate plan in order to ensure that each of your heirs receive what they are supposed to receive.

A well thought-out estate plan also includes many non-financial issues. For instance, if you have minor children, it is important to determine who will serve as their guardian if you and their other parent both pass away. You should also decide who will be responsible for making health care decisions on your behalf and managing your assets in the event you are not able to do so yourself, because of an illness or injury. Those who want to protect their heirs' inheritance from potential dissipation in the event of imprudent acts by the heirs, a lawsuit, divorce, etc., should consider the use of long-term trusts and other asset-protection vehicles. Finally, consider taking the burden off your loved ones by leaving specific guidelines for your burial and funeral arrangements.

In order to assist you in establishing a well-crafted estate plan, that should remove a significant burden from your survivors and leave them financially secure, we have set forth below two Estate Planning Checklists. The first Checklist helps to ensure an estate plan covers all of the key elements. The second Checklist ensures that the estate plan does not become obsolete. You should review both Checklists periodically to determine if an update to your estate plan is required.

Estate Planning Checklist

1. Do you have an up-to-date will?
2. If you have minor children, does the will name one or more guardians for them?
3. Have you named an executor for your estate and trustee for any trusts? Do you have alternates in case the executor or trustee cannot serve? Are you still comfortable with your choices?
4. Have you considered using a revocable living trust or other methods to avoid probate? Do you recognize all the implications of the strategy?

5. If you have a revocable living trust, have you shifted title of your assets to the trust? Many people have revocable trusts drafted and then fail to transfer legal title of their assets to the trusts. That eliminates many of the benefits from establishing the trust. Check with your financial advisor or estate planning attorney if you need help transferring legal titles to your revocable trust.
6. If married, does your will take advantage of the marital deduction? Do you overuse the marital deduction? This is less important for most people under the latest tax law. But if you are wealthy, you might want to maximize use of the marital deduction to ensure the maximum amount of assets avoids the federal estate tax.
7. Do you use a qualified terminable interest property (QTIP) trust to leave property to your spouse, while restricting your spouse's ability to divert the trust property to others (i.e. a new spouse or significant other)? Again, this mostly is a concern to people whose estate might be subject to federal estate taxes or in second marriages with blended families.
8. Does each spouse have title to enough assets to take advantage of the lifetime estate and gift tax exemption? This is another issue that is a concern only to families whose estate might be subject to the federal and/or state estate tax.
9. Have you determined the amount of life insurance you need and the right type of insurance for you? Life insurance traditionally has been used to pay estate taxes, but it has a lot of other uses. You might want life insurance to pay debts or other estate expenses. Life insurance might be important if your estate is illiquid due to ownership of a closely-held business and/or investment real estate. It also can be a way to equalize inheritances among loved ones, leave a bequest to charity, or ensure a minimum inheritance.
10. Is any life insurance owned by an irrevocable trust, partnership, or beneficiary instead of by you? When the estate might be subject to federal and/or state estate taxes, you may want the life insurance owned by an irrevocable trust or other entity, so the death benefits aren't taxed.
11. Do you have an annual gifting program in which you take advantage of as much of the annual gift tax exclusion as you can afford to do so? This allows you to transfer appreciating assets out of your estate without owing any gift taxes or using any part of your lifetime estate and gift tax exemption.
12. Do you take advantage of unlimited tax-free gifts by paying for certain qualified educational and medical expenses of your loved ones?
13. Are gifts for minors or others put into trusts with *Crummey* provisions to maximize tax-free giving?

14. When you make annual gifts, do you give property that is likely to appreciate in the future? That ensures the future appreciation is out of your estate and won't use up part of your estate tax exemption amount.
15. Have you considered making larger gifts above the annual, tax-free amount in order to use your lifetime estate and gift tax exemption? For those with significant wealth, doing so ensures that you take advantage of the exemption while it still is available. Today's "supersized" Federal exemption amount (\$10 million per spouse, indexed for inflation) is scheduled to be reduced after 2025 (to \$5 million per spouse, indexed for inflation).
16. Have you considered giving, now or in your will, directly to your grandchildren to avoid estate tax at your children's deaths? If you're very wealthy, these so-called "generation-skipping" transfers can avoid a layer of gift and estate taxes.
17. Have you considered charitable remainder trusts, charitable lead trusts, or charitable gift annuities to generate tax deductions for you or your estate, while providing for you, your loved ones, or favorite charities?
18. Have you selected a beneficiary for your IRA or other qualified retirement plan that can maximize the significant wealth accumulation benefits associated with long-term income tax deferral?
19. If you make charitable gifts in your will, have you considered making those gifts with your IRA or other qualified retirement plan instead? Using IRAs or other retirement plan benefits is often the most tax-efficient way to make charitable gifts.
20. If you own a business, do you have a management succession plan and an ownership succession plan in place?
21. Have you prepared a book of instructions, checklists and other documents for your executor and loved ones? These documents can make things easier on your loved ones and help ensure your goals are met.

Estate Plan Update Checklist

If there has been a change in any one or more of the following items since the last review of your estate plan, then it is time to get in touch with your estate planning advisor and determine whether the plan needs to be updated.

1. The marital status of you or any of your family members
2. The birth or adoption of any children or grandchildren

3. A serious illness or disability of you or any other family member
4. Changes in support provided for parents, children, in-laws, or others
5. New financial problems of any family members
6. Gifts to family members, other than those scheduled in your plan
7. Loans to family members, either given or forgiven, other than those in your plan
8. The amount of life insurance provided or beneficiaries of the insurance
9. Any aspect of your business ownership, including valuations, sales and new ventures
10. The overall value of your estate, other than what was anticipated in the last plan
11. You desire to change any of the following details of your will or revocable living trust, including:
 - Executor
 - Guardian
 - Trustee
 - Specific property gifted
 - Charitable gifts
 - Trust arrangements, including beneficiaries, trustees and ownership of property
12. Moving, even within the same state, or spending more time at a second residence
13. Your choice of beneficiaries or goals for disposition of your property
14. Death of any beneficiaries, including family and friends
15. The succession plan for your closely-held business

As the preceding Estate Planning Checklists indicate, an estate plan involves a lot more than drafting a simple will. Many people don't complete or even start their estate plans because they don't know how to begin. They are overwhelmed by the different items that should be in a plan.

An Estate Planning Checklist is a good way to start an estate plan and help ensure the plan is complete. Please remember that the main goal of an estate plan is to protect both you and your

family. Regardless of your age or wealth, you need some form of estate plan. These Checklists should help ensure you have a complete plan and that it remains up to date.

This piece is not a substitute for legal advice which can only be provided by a qualified attorney.

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