

Essential Actions for Every Estate Plan

There are basic actions that should be taken in your estate planning, whether the estate is taxable or not. Too many people still believe that because their estates aren't taxable under federal law, they don't need to do any estate planning. Those are mistakes. In most estates, the non-tax issues always have been more important than the tax planning, and you never know when those non-tax features of the plan will be needed. That's why there are fundamental actions you should take regardless of the tax status of your estate.

- **Keep moving forward.**

There are a lot of issues that must be resolved in developing an estate plan. In most estates, it seems there always are a few issues that take more time and thought to resolve. Don't let the difficult issues leave you with no estate plan or an out-of-date plan. If you can't pull a complete plan together right away, at least do the minimum necessary, such as a basic will and powers of attorney. It is very acceptable to prepare an estate plan in installments, and it's better than not having a plan while waiting for a few pieces to come together. Assemble a simple, basic plan now that covers the essentials. Then, work toward a more robust plan as you learn more about the tools available, refine your goals and resolve disagreements.

- **Keep a record of your estate.**

There's a story that W.C. Fields didn't think banks were safe, so he diversified by stashing relatively small amounts of his money in banks all over the country. He didn't keep a master list of the banks, and his heirs never were sure they found all the money, though they devoted resources trying to track down it all. Fields probably knew how to find everything, but he didn't give anyone else all the information. We have heard different variations of this story over the years regarding estates of all sizes. Some people are still convinced their long-deceased parents had assets stashed away that weren't found. Others spent a lot of time and money tracking down all the assets. Some people report finding money stashed in each coat in their parents' closets. Without a good record of your assets and liabilities, your accumulated wealth won't reach your intended beneficiaries and your estate planner can't deliver the best advice. At a minimum, you should maintain a complete list of your assets and liabilities and update it at least annually. Share this information with your estate planner and the executor (or executors) of your estate. And make sure your executor knows where to find all the supporting information. Even better, prepare a record of all your key financial items and information, including online accounts. For help compiling a list, use the work book "You and Your Survivors" found at this link: <https://www.federalretirees.ca/en/publications/you-and-your-survivors>

- **Estimate cash flow.**

Many people overlook cash flow when developing an estate plan. But cash flow and sources of cash are vital to your loved ones. Debts must be paid. Lawyer's fees and other expenses will be incurred. The expenses of running and maintaining the estate's property and the regular living expenses of dependent survivors must be paid while the estate is being settled.

Of course, if taxes are due they must be paid with cash. Estimate how much cash the estate and your dependents will need before it is settled and where it will come from to pay what is owed. If the estate won't have enough cash, make a plan. You can sell some assets now, provide that some people will get property instead of cash, buy life insurance, or give the executor ideas on how to raise cash. Many estate planners advise limiting specific cash bequests in your will to avoid cash flow problems.

- **Choose executors and trustees with care.**

Most people spend a lot of time on their plans, and then select the executors and trustees as an afterthought. Often, the oldest child or sibling is selected by default. Unfortunately, even a good estate plan can be ruined if the wrong people implement it. Give a lot of thought to who should execute your plan.

- **Anticipate conflicts and reduce them.**

Many estates have built-in conflicts that could have been resolved by better planning. For example, if kids don't get along now, and if you are always mediating their disputes, then they aren't likely to amicably manage assets or decide how to divide them. Don't create an estate plan that forces them to agree or work together. It is probably better to give them separate ownership of assets, different voting rights, or name someone else to make decisions about dividing the property. Other times the roles of an individual create conflicts. A classic conflict is when a surviving spouse is made trustee, receives income from the trust and the children receive the trust property after the spouse dies. Often, the children end up believing that the spouse invested for maximum current income at the expense of earning capital gains for the future. Your estate plan should avoid such built-in conflicts. At best, they lead to hard feelings and, at worst, expensive litigation ensues.

- **Prepare to make trade-offs.**

An estate plan is a balancing act. The balance needs to be struck between your goals, the needs of your family, the law and perhaps other factors. For example, you want to provide for your spouse but probably also ensure your children eventually receive a legacy. Should you leave everything outright to your spouse and hope for the best? Or should you put some or all of the estate in a trust with an independent trustee? A good estate planner will present you with several alternative plans to reach your goals. Each will handle the trade offs in different ways. You choose the alternative that strikes the balance you prefer.

- **Carefully consider controls.**

Sometimes controls on inheritances are a good idea, such as when a beneficiary doesn't have good judgment or experience handling a meaningful amount of money. In such cases, it might be best to put property in a trust with some restrictions, at least until the beneficiary reaches a certain age. But some people go a step further and dictate in detail how wealth is and is not to be invested and distributed. There are trusts saddled with restrictions that require them to be invested in Treasury bills, gold stocks or the stock of certain companies, to name just a few examples. Such controls assume the future will be just like the past and don't let trustees, executors, and heirs adapt to changing circumstances.

- **Make your general plan known.**

If you don't tell heirs your plans, they will develop expectations. Feelings tend to be hurt when they are surprised after your death. That can lead to anger or bitterness that might be taken out on others in the family. Also, heirs might plan their finances with certain expectations about your estate plan and have difficulties when the reality is different. You should let people know generally how they're affected by your plan. For example, if you aren't going to treat heirs equally, you will leave money to charity, or you know that someone is expecting certain property, it is important to let the affected people know your intentions and reasons ahead of time.

- **Don't circulate your will.**

While you want the general outline of your plan known among those affected, don't circulate the will. It is likely to be updated periodically and having different versions of a will circulating over the years makes confusion and even an expensive will contest more likely. Also, some people might be upset about changes in some details, even when they wouldn't have cared if they'd known only the final version.

- **Update and revise.**

Your estate plan never is final. The property you own changes, as do the values. The members of your family change through births, deaths, marriages and divorces. Your goals might change. You might be inclined to leave more or less to charity or specific heirs over time. You need to meet with your planner at least every two or three years to review changes in your financial picture, family and goals as well as the law.

- **Keep it as simple as possible.**

Some people and their attorneys get so wrapped up in the latest estate planning tools that they overlook simpler strategies that will accomplish the goals. Be sure complications are necessary to meet your goals before putting them in your plan.

- **Procrastinating.**

Unfortunately, the saying "better late than never" doesn't apply to end of life planning. **Which makes procrastination the worst mistake you can make!** At the very least, think about what your family needs to know. This will help reduce the stress they'll experience after you're gone.

- **Communicating.**

Talking about death and dying isn't something that comes naturally to most families. But communicating your plans could prevent huge, unintended mistakes. So save your loved ones a little stress, frustration and anxiety by providing some direction, when they will need it most. You may not want to reveal who will get what prior to your death. But, if you want your heirs to understand the purpose or intentions of your plan, there are things you can do. One way is to write a letter to be presented after your death. You may want to create a detailed list of who will receive what. This may help reduce family tensions or arguments.

Sins of Omission

- **Failing to update your Will or Trust.**

Every life event – yours or one of your beneficiaries (marriage, divorce, birth of a child, death, etc.), should prompt you to review your plan. All too often ex-spouses are left monies that were intended for other family members.

- **Forgetting about beneficiary designations.**

Insurance Companies are required to pay benefits to the most recent beneficiary listed on file. So make sure to review your group life insurance, individual policies and retirement accounts. *Your Will does NOT trump these designations, so make sure to keep them updated!*

- **Ignoring children's ages, or special needs.**

Insurance companies cannot pay monies to minor children. So make sure to name a legal guardian to handle monies designed for the children's benefit. Also, if you have a child with special needs, it may be in their best interest for you to set up a trust. This allows you to decide who will care for them. It also allows you to set aside monies for their future.

- **Leaving a trust unfunded (or underfunded).**

A living trust, which allows you to pass monies or assets to heirs (without going through probate), can be a valuable estate-planning tool. But it won't do you a bit of good if you fail to put assets (usually life insurance, bank accounts etc.) into the trust. Once you've set up a trust, you must re-title any of these accounts with the name of the Trust.

- **Selecting the wrong executors and trustees.**

Your plan is only as good as the people who carry it out. Probate or Trust administration isn't for everyone. Some people lack the interest, the time, or the understanding it requires. Others may not take the responsibility seriously or understand the potential liability involved.

- **Failing to consider what will happen if you and your partner aren't legally married.**

If you live together and you are not married, you should consider the legal effects surrounding end of life rights and after death taxes.

- **Believing your estate is too small.**

End-of-life planning doesn't depend on how much you have. It's about how you handle what you do have.

- **Forgetting about your furry (or not so furry) friends.**

Take the time to spell out who will be responsible for your pets should something happen to you. Pet trusts can help you set aside money to aid in their care after you're gone.

- **Neglecting your digital assets.**

Remember that your property isn't confined to what you physically own. You've got a whole online life to think about too.