

Out of Date and In Need of Immediate Overhaul: The Story of Many Existing Estate Plans

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Client and prospect meetings need to include a review of the estate plan – does it still work as expected, is the trust funded, have beneficiary designations been completed, did any laws change, have family or finances changed, how old are the documents, and was there a move to a new state? Recognizing when an estate plan needs to be updated will lead to meaningful discussions about what keeps clients and prospects up at night. When you can help alleviate their concerns, you're a hero to your clients.

How Your Business Will Benefit from Spotting Estate Plans That Need Updates

- An out-of-date estate plan can cause a multitude of problems. Your business will benefit from identifying out-of-date plans because:
- Your clients will gain peace of mind knowing that you are watching out for them and proactive in seeking solutions.
- If an estate plan doesn't work as expected, assets may likely leave your management.
- You may gain new assets under management as new investments and trusts are created for grandchildren or other beneficiaries.
- You will make new connections and gain new referral sources when you work with your client's attorney, accountant, and banker to bring things up to date.

Ten Reasons for Updating an Estate Plan and a Financial Advisor's Opportunities

Reason # 1 - Change in Marital Status. Separation, marriage, and divorce all require major changes to an estate plan. Also, be on the lookout for prenuptial planning opportunities if marriage is being considered.

Reason #2 - Change in Financial Status. Winning the Powerball will certainly change someone's financial status, but so will selling a business, retiring, or receiving an inheritance. Money in motion may require changes to the estate plan, advanced planning, and additional products.

Reason #3 - Birth or Death. The birth of a child or grandchild often leads to opening UTMA accounts, setting up 529 plans, and creating gifting trusts. The death of a beneficiary may require the addition of new beneficiaries and changes to beneficiary designations; the death of a family member or friend named as a successor trustee or other fiduciary may result in the need for a corporate trustee.

Reason #4 - Changes in Lives of Beneficiaries or Fiduciaries. Ask about the following:

- Has a beneficiary developed a drug or shopping habit?
- Has a beneficiary gotten married or divorced, given birth, or adopted?
- Has a child or grandchild become an adult and a good candidate to serve as a successor trustee or other fiduciary?
- Has a parent, sibling, or friend become too old to serve as a successor trustee or other fiduciary?
- Has a former employee or estranged friend been named as a beneficiary or fiduciary?

Reason #5 - Changes in Latitude. Moving from one state to another warrants a review of the estate plan to ensure it will work as expected under the laws of the new state. And, purchasing a second home or investment property outside of the home state requires a discussion about how the property should be titled.

Reason #6 – Changes in Estate and Business Planning Law. In the wake of the American Taxpayer Relief Act of 2012, some basic assumptions that shaped most estate plans—especially estate tax thresholds and the principle of portability—shifted significantly. Every estate plan drafted before 2013 needs a review and probably an overhaul. If your client has a plan created before 2013, we’re available to help them overhaul their plan.

Reason #7 – Innovations in Estate and Business Planning Approaches. Laws change. Societal trends change. Court cases are decided. IRS rulings come down. And in response, thought leaders in estate planning, business planning, and elder law innovate. Examples include lifetime QTIPs, hybrid asset protection trusts, standalone retirement trusts, and more. Even well-drafted plans from more than a few years ago miss these innovations. Your clients deserve to know if newer strategies and techniques might be better for them.

Reason #8 – Potentially Heightened Need for Asset Protection. Estate and business planning attorneys are not the only ones innovating. So are those who would like to use the law to raid your clients’ assets, whether justifiable or not. You can help ensure they are the least attractive targets for such threats through the use of proven asset protection strategies.

Reason #9 – Innovations in Investment Tools and Strategies. With the rise of exchange-traded funds (ETFs) and their distinctively tax-efficient design, as well as no-load variable annuities, it is possible today to avoid, defer, and/or reduce taxes in ways that were previously much harder or more expensive to do. These reopen the door to investment-related estate strategies that previously might have been avoided because of their tax inefficiency.

Reason #10 – Windows of Opportunity in Economic and Market Cycles. Conditions that prevailed when your clients adopted their existing estate or business planning strategies may have led their attorneys and advisors to ignore or reject certain strategies as infeasible that now under different economic or market conditions might be especially attractive. For example, low interest rates like those today raise the viability of strategies like Grantor Retained Annuity Trusts and premium-financed life insurance that might have previously seemed inappropriate.

Caution – When Should an Estate Plan Be Amended or Completely Overhauled?

Once it has been determined that the estate plan needs an overhaul, the initial reaction may be to patch things up with a “simple” or “cheap” amendment. The truth is that most truly helpful changes require a complete restatement or overhaul of the plan.

We Are Your Estate Planning Partners

Spotting the reasons why an estate plan should be updated is straightforward. Knowing how to fix the plan isn't. Please view us as your partners who will sit in on prospect and client meetings and provide the estate planning expertise required to make and update estate plans that will work as anticipated during life and after death. And, as always, we are available to answer your questions and review out-of-date estate plans.