

## THOUGHT LEADERSHIP

LEGAL UPDATES

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# Guide to Reviewing Your Estate Plan

## Introduction

Because so many things can change with time, we recommend that our clients review their estate plans every three to five years and update plans as needed. These periodic reviews help to ensure that your affairs are in order, that the plan is still consistent with your wishes, and that your plan will be effective in avoiding probate and avoiding or mitigating estate tax exposure.

### Review all fiduciary roles

A great first step in reviewing your estate plan is to look over the individuals you have selected for various fiduciary roles. This includes successor trustees under your trust(s), personal representatives under your will, agents under your healthcare and financial durable power of attorney documents, and guardians for minor (or special needs) children, if applicable. Consider whether you still have the right people in each of these roles.

### Review asset titling and beneficiary designations

Next, we recommend confirming that all of your assets have been titled in the name of your revocable trust or have transfer-on-death (TOD) beneficiary designations in place. Your assets may include bank accounts, brokerage accounts, real property, closely held stock, LLC or partnership interests, mineral interests, and automobiles, among others.

Any assets owned in your individual name without a TOD designation will be exposed to the costs and delays of probate. Assets owned jointly with rights of survivorship will also effectively avoid probate, provided there is a surviving co-owner.

In addition, the beneficiary designations for your tax-deferred retirement accounts, such as IRAs and 401ks, should typically designate your spouse as the primary beneficiary and your revocable trust as the contingent beneficiary.

if you are married, or your revocable trust as the primary beneficiary if you are not married.

Unless you have an irrevocable life insurance trust, the beneficiary of any life insurance policy should be the insured's revocable trust.

Trust funding is an ongoing process. As you acquire new assets or administer your existing assets, consider whether the asset should be owned by your trust and plan to review the titling of your personal holdings on a regular basis.

### **Consider liability protection for real estate**

Real estate is an important asset with unique considerations. If you have acquired any investment real estate since your estate plan was last updated, consider transferring the property to a limited liability company (LLC) for liability protection purposes, especially if the property is rented. Unless you have an irrevocable trust, your ownership interest in the LLC should then be titled in the name of your revocable trust.

### **Consider whether your adult children need their own estate plans**

If a child or grandchild is over the age of 18 (or 21 in some states), he or she should consider executing their own healthcare and financial power of attorney so that parents or other trusted agents can continue to assist the individual in the event of an emergency.

Also, if anyone in your family has recently been married or has had children, it is important that he or she set up an estate plan to ensure adequate life insurance and other protections are in place for the spouse and children.

### **Consider taking further estate tax mitigation steps**

In 2024, the federal estate tax exemption amount is \$13.61 million per taxpayer. This is pegged to a base exemption amount of \$10 million, which is adjusted annually for inflation. The base exemption amount is scheduled to drop from its current level to \$5 million indexed to inflation on January 1, 2026. The tax rate is 40% for estates that exceed the exemption amount and the tax must be paid nine months after the date of death. If your estate value exceeds your available exemption amount, or if that might be the case after 2025, we suggest contacting your estate planning attorney to discuss estate tax mitigation strategies.

### **Pre-plan your funeral**

While for most estate planning attorneys it is outside the scope of what we do, you may want to consider pre-planning your funeral or cremation arrangements to make such decisions easier for your loved ones when the time comes.

## Compile and secure your most important records

Finally, an important but often overlooked aspect of planning your estate is to make sure that your most important records, including account and contact information, are organized and in a secure place that your loved ones or agents are aware of and will have access to, should the need arise.

Important documents include your original last will and testament, copies of your trusts and healthcare and financial durable power of attorney documents, and information regarding your funeral plan arrangements.

In addition, we recommend including contact information for your friends and family as well as your accountant, lawyer, financial advisor, and medical doctors.

It is also important to list username and password information for all of your digital assets, including your financial, email, cell phone, and social media accounts. Digital assets are governed by federal law, state law, and private service contracts, which may cause your trustee or agent to encounter obstacles when attempting to access such assets without the proper account information upon your death or incapacity.

## Next steps

### **Consider working your way through the checklist below as you review your estate plan:**

- ✓ Review all fiduciary roles
- ✓ Review asset titling and beneficiary designations
- ✓ Consider liability protection for real estate
- ✓ Plan whether your adult children need their own estate plans
- ✓ Consider taking further estate tax mitigation steps
- ✓ Pre-plan your funeral
- ✓ Compile and secure your most important records

## Contact us

If you need assistance with updating your estate plan or transferring assets, or have questions and would like to discuss your options, please contact your Husch Blackwell estate planning attorney.