

# CHOICE & VOICE



› **A Guide For Tuning Up  
Your Estate Plan**



# Does Your Estate Plan Need a Tune Up?



Once an estate plan is created, most of us only think about reviewing it when we decide to add or remove a specific beneficiary. However, there are many other life events that can prompt a planning review. This brochure provides information on scenarios and instances where you should consider “tuning up” your will.

Take a few moments to answer the questions below to help you decide if it's time for a tune up.

## ☒ Marital Status

Since you completed the most current version of your estate plan...

### ☐ Have you married, divorced, or been widowed?

Marital status significantly impacts how assets are transferred upon your death. If your marital status has changed since you created your estate plan, it may have significantly altered what your current estate plan will accomplish. In addition to reviewing the core documents of your estate plan (will or living trust), you may wish to review the beneficiary designation forms for any retirement plans, 401(k) plans, or insurance policies you have. These forms take precedence over what is stated in a will or living trust; if the forms are not updated, your assets may not go where you intend.

### ☐ Have you signed a prenuptial agreement?

If you have signed a prenuptial agreement signaling your intention to marry, you will soon be altering your marital status. Some states have presumptive laws that may be inconsistent with your wishes as stated in the prenuptial agreement or your current estate plan. A comparison of all documents with current state law may help you avoid potential situations in which state law precludes fulfillment of your and/or your intended spouse's wishes.

### ☐ Have you formalized a separation?

Revision of your estate planning documents may be appropriate if an informal separation now has a formal outcome.



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## ☒ Parenting and Grandparenting

As parents and grandparents, guardians and godparents, the lives of our loved ones affect us personally and financially. Since you completed the most current version of your estate plan...

☐ **Have you welcomed a child or grandchild?**

This life event may suggest directing assets to the new child or a change in assets directed to existing children.

☐ **Have you (or one of your children) adopted a child?**

If you have adopted a child, or a child has been adopted by one of your children, you may wish to include them in your estate plan. Inheritance rules for adopted children vary so it's important to make changes in line with your state's laws.

☐ **Have you experienced the death of a child or grandchild?**

This loss may trigger or prompt a change in beneficiaries, which can significantly impact the structure of your estate plan. The loss of a child can also affect guardianship if that responsibility is defined in an estate plan.

☐ **Have any of your children turned 18?**

This eliminates the need for a guardian for this child. Whether this change significantly impacts your asset distribution or any other variable is a factor worthy of review.

☐ **Have any of your children married, remarried, or separated?**

Changes in your children's marital status can affect your estate plan distribution. If there are references to spouses, these should be kept current, particularly if the family is engaged in a family business that could be affected.

☐ **Have you added dependents such as aging parents or children returning home?**

Whatever the cause of this dependency, you will want to ensure that your estate plan sustains the care of the parent or child.

☐ **Have you loaned money to your children or grandchildren?**

Your estate plan should clearly reflect how you wish this money to be treated if it has not been paid back by the time of your death. Do you wish to forgive the loan? If so, will it affect how your assets are allocated among your beneficiaries? If you do not wish to forgive a loan, will this outstanding debt become an obligation to your estate?



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## **Assets & Ownership**

Since you completed the most current version of your estate plan...

☐ **Has your net worth significantly increased or decreased?**

Any major swing in your net worth can impact the design of your estate plan. Estates that have been reduced significantly may no longer need complex structures in order to minimize taxes. Alternatively, small estates that have grown may now need structures if the new wealth triggers estate transfer taxes.

☐ **Have you acquired property such as a vacation home?**

The manner in which any new property is deeded is the critical factor. You may wish to leave the new vacation home to your children, but if the deed includes both you and your spouse, and you predecease your spouse, the final decision will belong to your spouse. If any property is owned through joint survivorship, this property will pass to the survivor, regardless of what is directed in your estate plan. A review of deeds alongside your estate plan may help ensure that all are consistent and that your wishes can be fulfilled.

☐ **Have you started a business?**

The creation of business ownership, especially if that business grows significantly, carries with it a host of issues worthy of review. Ensuring that control of the business passes to the appropriate business leader may be critical to keeping the business solvent. That leader may or may not be a family member whom you wish to benefit from the business. Your estate plan should clearly state your wishes regarding the leadership succession of the business.

☐ **Have you purchased life insurance?**

The addition of life insurance, depending on who owns the insurance (you, your spouse, your children, your estate, a key business partner) can be completely ignored by your estate plan, or significantly impact it.

☐ **Have you started a retirement plan, IRA or 401(k)?**

Your beneficiary designation forms for retirement plans will take precedence over any other directions you include in your will regarding these assets. It's important to ensure that your intended distribution amounts are documented in your estate plan and match what is in your forms. Keeping these forms updated with current beneficiary choices is a critical maintenance aspect of any estate plan.

☐ **Are the liabilities your estate will face on your death greater than the liquid assets?**

Proactively assessing your estate's ability to pay necessary fees and taxes will help your executor(s) avoid the forced sale of real estate or other illiquid assets. Such a sale could negatively impact the executor's ability to fulfill your wishes regarding the transfer of cherished assets to your beneficiaries.

☐ **Have you started to receive income from a trust?**

If a trust was not producing income for you when you originally created your estate plan, you may not have addressed its existence in the plan. Now that it has begun to produce income, it may be worthy of review. Depending on the size of the income, you may wish to change the distribution of assets to beneficiaries or at least determine if the trust income will have an impact on your estate tax issues.



## ☒ Gifts & Giving

Since you completed the most current version of your estate plan...

☐ **Have you thought about making a charitable bequest but not yet done so?**

No state law allows your executor to add charitable bequests once you are deceased. If you are considering a charitable bequest, it may be time to review your estate plan and finalize your decision.

☐ **Have you used cash or other assets to make a substantial charitable gift, either outright or through a life income arrangement such as a Charitable Gift Annuity?**

If you have created such a charitable vehicle, the asset(s) you used to fund the vehicle will pass directly to the charity. Consequently, the asset(s) will not be available to fulfill other demands or intentions you may have originally stated in your will.

For example, it is not unusual for individuals to include a bequest to a charity in their wills, make a life income gift as their needs change with age, and then overlook the impact of that life income gift on the original bequest and other intentions. The establishment of a life income gift can be a great way to create new income streams from assets that were formally non-producing, but the impact of such a gift should always be considered within the context of the individual's overall financial picture.

**If you would like to make a charitable bequest to benefit Consumer Reports, you can use the following language:**

Consumer Reports Inc., Yonkers, NY  
Tax ID# 13-1776434

*"I give and bequeath (The Trustee shall distribute) to Consumer Reports, Inc., Yonkers, New York, the sum of \$\_\_\_\_\_ (or \_\_\_\_\_ percent of the rest and residue of my estate or trust) to be used by it for its general charitable purposes."*



☐ **Have you received an inheritance or significant gift?**

This has the same result as an increase and suggests it's time to review your plan.

☐ **Have you made a significant gift to family members?**

If you have, you may need to consider if it will reduce your estate's liquidity and ability to pay transfer taxes as property passes from you and your spouse to your other beneficiaries. This is particularly true in regards to transfer taxes that are imposed by state rather than federal tax authorities. The impact of these potential taxes on your other beneficiaries may merit review.

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## ☒ Home and Health

Since you completed the most current version of your estate plan...

☐ **Have you moved to a new state?**

Changing your primary residence will change the jurisdiction of your estate plan. It is important to keep your plan consistent with the state in which you live.

☐ **Have any of the beneficiaries of your estate plan predeceased you?**

You will want to modify your estate plan if any beneficiaries, including designated beneficiaries of assets passing outside of your will or living trust, to address this issue.

☐ **Have you or your spouse become incapacitated or are you dealing with a serious illness?**

If you are facing a situation that involves personal incapacitation, estate planning documents such as a Power of Attorney for health care and a living will become more important than ever. If your spouse is facing incapacitation, he or she may want to create similar documents. You may also want to create a special needs trust for a spouse facing incapacitation so that, in the event that you predecease your spouse, quality care is provided for.

☐ **Have you considered what would happen to you and your loved ones if you were suddenly incapacitated by stroke, major heart attack, or coma?**

All too often, we think of estate planning as something connected only with what happens after our deaths—and with our material possessions. In reality, estate planning is planning for life: when we ignore it, we abdicate control over what happens during our lives.



## ☒ Estate Planning Team

Since you completed the most current version of your estate plan...

☐ **Has your executor, guardian, or anyone given Power of Attorney (POA) moved?**

These individuals may no longer be in a position to manage the affairs you once assigned to them.

☐ **Is your executor (or anyone given POA) now unwilling or unable to perform the appropriate duties?**

By addressing this now, you will avoid having the court decide who will make decisions in your name and on your behalf.

☐ **Are you likely to outlive your executor or someone to whom you have given POA?**

Ensure that you have documented "back-up" candidates and are not relying inadvertently on the court to make your choices for you.

☐ **Is the person named as guardian now unable or unwilling to perform the duties of guardian?**

This is a critical question for those who have children who have not yet reached adulthood. Without backup guardians documented in your estate plan, the court will make the decision about who raises your children.

## ➤ So is it time for a review of your estate planning documents?

### ☐ If you had no real changes:

Isn't it great to feel that you are truly prepared? That you have provided for yourself and your family's needs? Considered the future as well as the past?

That being said, an estate plan is just like your automobile or your home: it needs maintenance. We suggest that you keep this Estate Revision Checklist and review the items every 18-24 months. And if you've not had a chance to consider what role philanthropy can play in your future, perhaps now is the time. Our brochure on Planning Your Charitable Legacy can help.

### ☐ If you had 1-4 changes:

There probably isn't a need to call the attorney's office this week, but you may wish to put your estate plan on your "watch list." Keep this checklist. Don't file it away in a drawer; put it with business papers you consult regularly and review it every six months. If you have two or more additional significant changes, it's time for a legal checkup. The plan may no longer be as effective as you would like.

### ☐ If you had 5-7 changes:

If you've had 5-7 significant changes since you created your estate plan, you DO need a legal check-up. Your check-up (which should be conducted by a qualified estate planning attorney) may not reveal that your entire estate plan needs revision; there may be selective issues that you and your attorney can address together. Use this checklist to highlight what has been impacted in your original plan; then visit your chosen attorney with the highlighted plan and the checklist in hand. If one of your significant changes is relocation to a new state or country, you may need a new attorney.

### ☐ If you had more than 7 changes:

With more than 7 significant changes, you are facing a choice that only you can make: do you try to overhaul the plan or simply start with a blank sheet and create a new one? Changes that are likely to indicate a "blank sheet" include things like a change in spouse (death, divorce, or remarriage), a major increase or decrease in wealth, and any significant changes in the number and/or identity of beneficiaries. Depending on the nature and complexity of the changes, and especially if you and your spouse have moved to a new state or country, you may also need a new attorney.

Tuning up an estate plan is an essential exercise as circumstances in our lives change. Indeed, it's a great opportunity to ensure that we are satisfied with both the future ownership of assets and the legacy we are creating through those transfers.

If you have questions, or would like to designate Consumer Reports as a beneficiary when tune up your plan, Amanda Das of our Gift Planning staff would be happy to speak with you. You may want to ask her about receiving additional planning materials including: A Planner to Help Organize Your Estate Plan, Alternative Ways of Giving, and Planning Your Charitable Legacy.



Please note the information provided here is presented solely as general educational material. It is not intended as legal or tax advice. When making an estate plan, you should consult your attorney, accountant, or other trusted estate planning professional.

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