

# Change: A Necessary Part of Life and Estate Planning

“The only thing that stays the same is everything changes.” I can hear Tracy Lawrence singing that in my head just as clear as when I first heard it in 1996. I didn’t quite understand it back then, but I do now. Change is a necessary part of life. The past six months have certainly proven that. Due to the constant changes that occur in our lives, change is also a necessary part of an effective estate plan.

At Chambliss, after we have helped a client set up his or her estate planning documents, we always recommend that the client review those documents with us in three years. Changes that may affect your estate plan can come about for numerous reasons: the death of a beneficiary or trustee, illness, a change in the value of your assets, or a change in your mind about who will inherit your property. Ever-changing state and federal laws can also affect your estate plan, making regular review necessary even if your personal situation remains the same.

Believe it or not, I have encountered many clients over the years with documents as old as the above-mentioned Tracy Lawrence song – over 20 years old. In my experience, people often think about needing to plan when their children are young, but then do not give it another thought until after they have reached retirement age and their family has expanded to include in-laws and grandchildren. If this is you, or if it has been over five years since you have looked at your estate planning documents, below are a few reasons why you may need to consider updating them.

## Four Reasons to Consider Updating Your Estate Planning Documents:

1. **Appointment of Fiduciaries** – One of the most common reasons for making changes to your last will, trust(s), or powers of attorney is to change the person named as executor, trustee, attorney-in-fact, or other fiduciary. In most cases, this can be done with a simple codicil to your will or amendment to your trust.
2. **Changes in Beneficiaries** – While we try to draft your documents to take into account most foreseeable future events, such as the birth or adoption of future children, death or disability of a beneficiary or fiduciary, etc., in many cases, changes can occur with children or other beneficiaries that require a change to your documents. Children grow up, people get married and divorced, grandchildren are born, and inevitably, issues arise. Is your child a spendthrift with creditor issues? Do they have a risky profession prone to litigation? Do they have a taxable estate of their own? Does your child or grandchild have a disability that may require government health insurance or Social Security disability benefits? Do you and your spouse each have children from a prior marriage that you want to protect and provide for in the event of your death? Perhaps you want to benefit a charity you have supported over the years or provide for your grandchildren's education. There are many reasons why the “simple” will you had prepared 10+ years ago probably does not work now. I find that these types of life changes are the greatest source of worry for clients. Discussing these issues and deciding how to deal with them will take time, but will be worth it to ensure that your wishes are carried out and your beneficiaries are properly provided for.
3. **Outdated Powers of Attorney** – One thing I have noticed more in recent years is that banks and other financial institutions are becoming very hesitant to honor the financial powers of attorney that are “too old.” How old is too old usually depends on the institution and their policies, but generally, if your financial power of attorney document is over five years old, you should strongly consider signing a new one (even if you choose to appoint the same people). In today's world of advanced technology and easily available forms online, financial abuse through an outdated or fraudulent power of attorney has become more prevalent and more difficult for third parties to catch. To combat this, we always suggest that you keep your power of attorney current and provide copies to your bank and financial advisors soon after your power of attorney is

signed.

4. **Tax and Other Law Changes** – As long as we keep electing people to public office, laws are going to keep changing. Over the past two decades, there have been many [drastic changes to the estate and gift tax structure](#) in our country. In 1997, the federal estate tax exemption (meaning the amount of assets you could leave to your heirs at death free of estate tax) was \$600,000. All assets over that amount were taxed at 55% at a person's death. This made tax planning an essential part of estate planning for the vast majority of clients. There were several planning techniques clients used in the 1990s to prepare for estate taxes that simply are not relevant anymore. In 2018, the Tax Cuts and Jobs Act increased the exemption to \$11.18 million, but the exemption is scheduled to “sunset” to pre-2018 levels (approximately \$6 million) after 2025, assuming Congress does not alter the exemption before then. We do our best to keep clients updated when major changes in tax and other relevant laws occur, but the best tactic is simply to review your estate plan with your attorney every three to five years to ensure your documents take advantage of planning opportunities available under current laws and minimize taxes and other risks where possible.

With so much change and uncertainty brought into our lives this year by the COVID-19 pandemic, it is hard to ignore how vulnerable we are to outside forces changing us – including our thoughts, actions, priorities, goals, and plans for the future. If you haven't updated your estate plan in the last five years, I strongly recommend you find your documents, review them, and contact your attorney to discuss any questions, changes, or updates you need to make.

If you have estate planning questions, please reach out to me, Leah McElmoyl, or another member of our [Estate Planning team](#).

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