



# LIFE AFTER ESTATE PLANNING

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It is one thing to meet with an attorney to put an estate plan in place; it is another thing entirely to make sure the work is done after the plan is in place to keep the plan valid and effective. This often is one of the most difficult concepts to understand for many people, and many times a very effective plan gets a substantial wrench thrown into it simply because this advice isn't followed.

As an attorney, it is my job to make sure my clients have effective estate and business plans to help them transition their farms to the next generation. Each plan is custom built to meet the client's individual needs. Sometimes a simple will-based plan is sufficient. Often a more complex trust is needed to make sure the client's desires are fulfilled. Whatever the plan may be, it is imperative each client take proactive steps to keep the plan effective into the future. Two mistakes are generally made after the initial establishment of an estate plan: 1. The assets involved in the estate plan are not properly titled after the plan is established, and 2. The plan is not kept up to date with changes in property and family.

When an estate plan is set up, especially with a trust, many assets need to be retitled in order to make the plan effective. In a trust plan, the assets are typically titled directly into the trust at the time it is set up, or titled so they flow into the trust upon death. These assets may include life insurance policies, retirement plans, stocks, bonds, bank accounts, automobiles, titled trailers, and real estate. Typically, your attorney will work with you to make sure this is done at the time the plan is set up, but once the plan is set up the responsibility falls on the client to be sure assets are titled properly in the future. If this is not done correctly it can cause problems that can take time and money to sort out. One of the goals of a trust-based plan is to avoid the probate process, which can be burdensome and costly. However, if you set up a trust and transfer all of your assets to it but forget to retitle your grain trailers or trucks properly, these assets will have to go through the probate process in order to get them where they need to go. The



probate process can take a lot of time, and while the truck or trailer is going through the process, it can be very difficult or impossible to legally operate them. The most common forgotten assets include cooperative stocks, grain condo ownership and vehicles. With these, or any other titled property, it is important to make your attorney aware of all of your assets when an estate plan is set up. It's equally important to be sure all new assets acquired after the plan is put in place are titled correctly according to your plan.

The other major mistake made by many individuals is not keeping their estate plans up to date. I recommend clients review their estate plan every 3-5 years to determine whether or not it needs to be revised. Family dynamics may change, you might buy more land, laws may change, or the plan may simply go out of date. For example, a plan that gives a child the opportunity to buy land at three times CAUV value may have been a good deal 10 years ago, but with today's numbers you may not get the outcome you intended. Although an estate plan may be as legally binding in 50 years as it is on the day it was signed, it likely will not effectively distribute your assets as you intended without some modification. A trust or will is meant to be a living document. This means it should be changed and amended as circumstances

require. This may or may not require a visit to your attorney's office. I recommend an individual review his or her estate plan to be sure the distribution of assets still accomplishes the desired goals every 3-5 years. This may require a review of all assets to determine if a substantial shift has occurred to disrupt the intended distribution to each heir, if the distribution to each heir should be increased or decreased or if any heirs should be removed or added to the plan. Your estate plan should change and develop just as your family and wealth does.

In order for an estate plan to be effective some maintenance must be done. As you take the time to review your estate plan and ensure all of your assets are properly titled in conformity with your plan, you can feel comfortable knowing your plan will do what you intended for it to do. Although reviewing your own plan to determine if any changes are needed is beneficial, it is always recommended you seek the advice of a competent attorney when reviewing your plan to be sure it is in conformity with current law and that your plan has accomplished your desired result. Each estate plan is different and although this article is provided as helpful information, it should not be construed as legal advice. ■