

**The Devil's in the Details: Why You Should Review – or Write – Your Estate Plan this Halloween**

By Cameron Morgan, MBA

Ding-dong! “Trick or Treat!” The sounds of Halloween are just around the corner, though your days of crazy costumes and candy corn are well behind you now. And in some age-restricted communities, not a single tiny, candy-seeking ghoul or goblin comes a-knockin’!

Don't shut the door on this holiday, though. The celebrations for Dia de los Muertos – Day of the Dead – can be repurposed! Why not use this time as an annual reminder to review your estate plan? The end of the calendar year may still be about 60 days away, but we all know those days fly by quickly. If your estate plan references family members, you may need to update their names, addresses, or marital status. Families often gather for Thanksgiving, Christmas or New Year's, but you won't know to ask, then, if you don't dare to look, now!

What are the steps involved in brushing up these dusty old documents? Scheduling a review with your existing estate planner, in his or her office, is the simplest approach. You'll get reassurance that your plan remains intact, or you'll get a To Do list that you can knock off before the festive winter holiday season kicks off.

While you're tracking down your planning documents, be sure to let one of your beneficiaries -- or your executor -- know where you keep them. Should this person go to a fireproof safe? A safety deposit box? Which bedroom? Which bank? Where are the keys? Who else has or knows this information?

You don't have to reveal “who gets how much, when.” Rather, this process is more like sharing a treasure map. How would your loved ones locate the will, the trust documents, the healthcare powers of attorney, the financial durable powers of attorney? Now is a good time to remind them, or to give them some clues.

Some of you are squirming in your seats like something creepy is crawling across your darkened doorstep. You have that feeling of being an *outsider* on this topic ... you are ... *someone without estate planning documents in place!*

Could it be?

Well, let's wave some garlic at those demons today, before Nov. 1<sup>st</sup> and Day of the Dead. Here are ten reasons to complete your estate plan, now, according to the estate planning team at Moye White LLP in Denver.

1. **You can assign trustworthy people to be in charge** of making good on your plans if you become disabled, or upon your death. So many people start down the road of planning their estate as a young family. Their intentions are clean and pure, just like their darling children. But they stop,

unable to hurdle the obstacle of selecting a guardian for little Jennifer and Scott. So the plan is abandoned partway finished, invalid.

Fast-forward two or three decades ... Jennifer and Scott are now grown, educated, married, and parents of your grandkids. The biggest hurdle somehow went the way of training wheels and braces. You can now identify a sensible adult who can serve as your agent for financial matters. This may or may not be a separate person from your agent for healthcare decisions. Similarly, you have seen which of your children, or their spouses, would serve best as your trustee and successor trustees. This may or may not include considerations of geography, with families today spanning multiple ZIP Codes, time zones, and sometimes nations.

Finally, you won't have to mull as much, or at all, over who would be the right guardian or conservator of minor children or disabled dependents. You either don't have that situation in your family, or you have already got a strong sense of who is most likely, most willing, most able, to serve.

2. **You can protect yourself if you become disabled.** A complete plan contains documents that would go into effect during life, if you are unable to make your own choices.

These documents include General Powers of Attorney, Healthcare Powers of Attorney, a Living Will, and (possibly) a Revocable Living Trust. Laws vary state by state, of course; more vital, they change periodically. With something as important as selecting another person to make decisions on your behalf – decisions that may include life-saving care -- the best gift you can give your loved ones is your thoughtful attention to current documents.

3. **You can leave assets to whomever you choose, whenever you choose, and can prevent challenges to your will.**

No one likes to think about ugly inheritance squabbles. Ghastly! What about the simmering sadness that is unspoken, but equally destructive? Grief brings out deep emotions, and siblings who have not spent much time together in recent years may find themselves emotionally triggered by old behaviors from their family of origin. Add spouses to the mix and you have the potential to brew a cauldron of ill-will.

While your beneficiaries may not like your choices, nor agree with them, at least they will know what your wishes for your assets are. The executor is in place to distribute the assets as you saw fit; give them clear instructions.

4. **You can transfer assets without incurring gift, estate, and Generation-Skipping transfer tax liabilities.**

Why is this important? Well, after a lifetime spent nurturing your kids into adulthood, you have probably seen times when one or the other child (or student, or young couple) needed or

received additional financial and emotional support. Your estate plan can help you balance your estate. Additionally, it can address:

- lifetime gifts
- loans to family members
- life insurance
- trusts
- asset protection strategies and tools

5. **Your estate can stay out of court.** Some states have more complicated, expensive, or public processes in place for probating an estate. Colorado, for example, is said to be relatively simple. Even here, though, staying out of court allows people to maintain privacy. It simplifies the transfer of assets. And it means you can depend on trustworthy people to do 'as you would have done.' That last point is essential, and creates an active partnership in the planning process. It communicates your wishes. Even if you're sure they know your wishes, it relieves your surviving loved ones of second-guessing, potential guilt, or in-fighting as the estate is passed down.
6. **You can coordinate assets that pass via beneficiary designation with the rest of your estate plan.** A simple beneficiary audit is an extremely valuable (and usually simple!) step in working with a true wealth manager.

Reviewing and, if necessary, updating, your beneficiary designations on Rollover IRAs, 401ks and other employer-based plans, Roth IRAs, all modes of life insurance (variable universal, universal, whole life, term life, group life) may uncover a deep disconnect between what you intend, and what will happen if you were to pass away today. The most common and headline-worthy misstep relates to marital status. Ex-wives and ex-husbands can and do inherit large sums of money; children and current spouses are disinherited. Siblings benefit from assets intended for your husband or wife. Just as often, the beneficiaries that are listed are no longer able to inherit because they predeceased you.

The added benefit of updating your beneficiaries on these accounts is balancing your estate. Coordinating the tax-free, stepped-up basis, and tax-deferred assets is important. But this type of fine-tuning is out of reach for those who have ineligible beneficiaries listed on stale but binding beneficiary documents. Get to it: audit your beneficiaries!

7. **You can plan for business succession.** Consider tools such as buy-sell agreements, shareholders' agreements, and golden handcuff plans, if applicable.
8. **You can create or leave a legacy through lifetime or testamentary charitable giving.** This point goes hand-in-hand with Step 6. Using beneficiary designations, especially on tax-deferred accounts and permanent life insurance policies, can be a powerful way to become a philanthropist.

9. **You can change your estate plan as your needs change, because estate documents are living documents.** This Step goes hand-in-hand with Step 1. People's lives change, and not always for the better. Your documents will need to reflect your selection of trustworthy people. While not as flighty as fashion and other costumes, a decade can make a difference in someone's relationship with you.

You can make small changes to your will through a Codicil. Additionally, you can amend a revocable living trust, if you have one. In sum, the benefits of planning include adding flexibility and power to the decision-maker you've selected to fulfill your wishes. This trustee can manage your estate according to the laws and circumstances in effect, to your best interests and your family's.

10. **Last but not least, the shift from thinking about your incomplete estate plan (and trying not to think about your incomplete estate plan) to having peace of mind is substantial.** What a relief to know your estate plan is in place. It's a tremendous gift to your survivors, who will be reassured knowing – not guessing – that they are doing what you wanted.

These ten compelling reasons may help you embrace Halloween as your annual estate-planning reminder. You can read more in *The New York Times'* article from last October, called "Where's That Advance Care Directive?" Published Oct. 17, 2013, in their Caring And Coping section, this piece references best practices with important healthcare documents. Additionally, the *Wall Street Journal's* list of "The 25 Documents You Need Before You Die" provides additional tasks; that piece was published on July 2, 2011.

In conjunction with the guidance above, these articles can add structure and confidence to steps only you can take. Go ahead and give your loved ones a tremendous gift this October, by choosing to be sweet rather than scary.

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