

OPINION

Today's Business: Common mistakes in estate planning

Christine M Tenore, Contributing Writer

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Christine M. Tenore Contributed photo

You finally executed your Last Will and Testament and your estate plan is complete. Right? If you said “yes,” you’ve made one of the most common mistakes in estate planning.

An estate plan is just that — a plan that has to grow as you and your family grow to accommodate changes in your medical and financial situation. Too many young families create a will when their children are young just to name a

guardian in case of catastrophe — then never look at the document for 20 years or more, even when celebrating the birth of a grandchild.

Most estate planning attorneys recommend reviewing a will every three to five years — not that the document needs to be changed, but rather to ensure that your wishes have not changed and are still being met with the documents in place.

Another common mistake is to neglect naming contingent beneficiaries. What if the individual you've named predeceases you? Who would you want to inherit? This is also an important consideration if you've named a charity or other institution. What if the educational institution that you've named no longer exists when you pass away? Where would you want those funds to go?

Your will only directs distribution of the assets in your sole name. Assets held jointly with another person will pass, by law, to the survivor. In addition, assets that have beneficiary designations, like retirement accounts, life insurance policies, an automobile and investment accounts, will be paid to the beneficiaries named with the institution — regardless of directions in your will.

It is also important to name successor beneficiaries so that if your designated beneficiary passes away prior to you, his/her distribution will pass to another person of your choosing.

A basic will must name one or more beneficiaries, identify the distribution to each and name an executor who will carry out the administration of your estate. However, a "basic" will is rarely sufficient.

For example, if your will does not include statutory powers for the executor's authority, then your fiduciary will be forced to petition the Probate Court for permission to make any significant steps in the distribution of your estate, like being able to sell your house. Another common mistake is to forget to add a power over digital assets, such as your online accounts, social media, cellphone, email, etc.

A successor executor also should always be named — the person you named may have moved away or is no longer part of your family circle. Maybe the named individual has passed away before you.

To protect a minor beneficiary's inheritance, a trust can be added to your will. You can even extend the actual distribution to an age beyond the age of 18 to ensure that the funds will be used as you've directed in your will.

Another common mistake is to try to incorporate complicated distribution schemes through your will rather than create a will and trust that can accommodate such detailed directions. A trust created in a will is subject to Probate Court jurisdiction for the life of the trust. This means that the trustee is obligated to file financial reports with the court every year — additional protection to ensure your wishes are followed.

An estate plan should be based on your wishes for the distribution of your assets upon your passing. Careful planning will ensure that there are no untended consequences when you pass away.

Attorney Christine M. Tenore is a partner at the Fairfield-based law firm Eliovson & Tenore. She can be reached at www.connecticutelderlaw.com or 203-336-2566. The firm is dedicated to helping clients face a host of estate planning issues, including those related to finances, health, long-term care and special needs.