

Adding Maintenance Elements to the Estate Plan Checklist



By: Ruth Ryan-Cruz, Esq.

During the course of a lifetime, people acquire and possess assets. These assets require maintenance in order to maintain their value and keep their components in proper working order. Your own health, for example, is an excel-

lent example of an asset that requires maintenance, much like your financial assets. As children, we leapt off the swing set at its highest point because we believed we were invincible. After all, our little flexible, healthy bodies were capable of physically handling just about everything we could throw at them. But life takes its natural course and our less flexible and aging bodies require checkups and maintenance in one form or another to stay active and healthy. Health checkups and wellbeing maintenance are required more often with time. The same evolving maintenance requirements occur with our possessions and our finances. We purchase shiny new vehicles and drive them off the sales lot knowing they will require maintenance plans. The peace of mind that comes with regular checkups is the same peace of mind that comes with regular financial and asset maintenance. So why do attorneys often establish estate plans without a maintenance arrangement? Does your estate plan practice have a maintenance arrangement?

As estate planning attorneys, we frequently take continued legal education courses to stay abreast of the latest techniques in drafting the different types of trusts, including gun, special needs, irrevocable

and revocable living trusts that are included within a complete estate plan. News articles and attorney seminars continuously provide attorneys and their clients with details on the importance of building and developing a strong and impenetrable estate plan. I have noticed, however, a lack of attention paid to the requirements of maintaining a well-drafted and established estate plan.

Estate planning clients may not understand the importance of maintaining the estate plan. As practicing professionals, we can take advantage of this opportunity to provide additional counseling to our clients during and, most especially, after drafting the estate plan. Doing so will help your clients carry out their desires as described within their wills and trusts. Estate plans require maintenance the same way our bodies and cars require checkups and maintenance to keep the instruments functional and moving forward.

Attorneys are often not the first resource clients turn to for their needs regarding wills, trust, estate planning or wealth management needs. Clients often speak to a financial advisor, wealth manager or insurance agent about these same needs. From these professionals, or even from your office, a client is handed an estate planning checklist which may include:

- a) discovering a need for an estate plan, b) reviewing current assets and liabilities, c) visit an estate planning attorney to discuss a thorough estate plan, d) decision-making including electing successor trustees, executors, financial

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agents, health care agents, guardians and successor agents for business matters, e) determine the assets left to beneficiaries, f) execute the estate plan, and finally g) fund the estate plan.

Generally, these are the initial and fundamental steps for successfully establishing an estate plan. However, this estate plan checklist is only partially complete and often a client is left ill-informed about its maintenance requirements. If your office's estate plan checklist only includes the points described above, consider adding the following remaining points to your checklist:

h) confirm trust funding is complete, i) recommend a financial planner for the family's continued needs, j) confirm clients are comfortable with the persons named within the documents, k) re-assess whether the clients are funding the trust adequately, l) review the estate plan to reflect the impact of the ever-changing tax laws regarding exemptions and gifting, m) review the estate plan to account for financial or family changes, n) schedule an in-office visit biennially after the trust and estate plan formation date to discuss these last points.

These last points add value to an attorney's legal services and provide clients with quality services. The suggested points above are intended to carry out and accomplish the objectives of the estate plan and are as equally important as planning and drafting the estate plan. To best add value for your clients, think of the estate plan as a Work-In-Progress set of documents requiring regular check-ups and maintenance. Continuous maintenance is required along with continuous conversations with your clients about this matter; it's critical. Communication and maintenance can save you and your clients from difficult times ahead when the terms of the estate plan are actually carried out.

If your clients currently seek out your office for only the drafting stage of an estate plan, take this opportunity to discuss an estate plan maintenance schedule with them as part of your repertoire. Your client may not ask about this, likely because they are unfamiliar with the steps required once the estate plan is established.

The difference between having an estate plan checklist ending in point "g" above and one ending with point "n" is vast and could result in an inaccurate estate plan which is the equivalent to no estate plan. Therefore, consider discussing estate plan matters with your clients from time to time. Choose a period of calmness in your client's lives to adequately discuss estate plan maintenance because waiting until a time of crisis will be disastrous.

Take this opportunity to revamp your checklist and include the suggested points above to provide your clients with estate plan tune-ups; keep yourself and your clients in control of their estate plan with regular maintenance!

About the Author:

Ruth Ryan-Cruz is a business, real estate, and estate planning attorney at Kehr Law in Downtown San Diego, California. Ms. Ryan-Cruz has immersed herself in various local organizations and national associations to expand her familiarity with different aspects of estate planning and various areas of the law. In actively working closely with businesses and their owners, Ms. Ryan-Cruz has greatly expanded her understanding for a business owner's commercial needs and estate planning needs which often work closely. Ms. Ryan-Cruz earned her Juris Doctor degree from California Western School of Law and received a Bachelor's of Science degree in Business Administration from CSU San Marcos. Ms. Ryan-Cruz is fluent in Spanish. Ms. Ryan-Cruz ofrece servicios es Español sobre testamentos y fideicomisos.