

Divorce necessitates an estate plan review

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There are few events that can completely upend a person's life more than divorce. Of course, there's the emotional toll on you and your family to contend with, but you also have to consider the divorce's impact on your estate plan.

When you originally crafted your plan, you likely centered many of its strategies around your spouse. Accordingly, when divorce proceedings begin, it's crucial to update your estate plan as soon as possible to avoid unintended outcomes. Don't wait until the divorce is final.

Who's next in line for your wealth?

Unless you wish to provide your soon-to-be former spouse with an inheritance, amend your will and any trusts to eliminate him or her as a beneficiary. In addition, unless you're comfortable with him or her administering your estate or controlling your wealth, you should designate someone else as executor or trustee. This is a good idea even if you live in one of the many states where divorce automatically nullifies any gifts or bequests to an ex-spouse and automatically revokes an appointment of a former spouse as executor or trustee.

There are several reasons for this. First, if you die before the divorce is final — even if you're legally separated — your spouse will still inherit in accordance with your will or revocable trust, and his or her appointment as executor or trustee likely will stand.

Second, the laws in these states typically treat your estate plan as if your former spouse had predeceased you. If you've named contingent or residual beneficiaries, any property your spouse would have received will go to them. If not, the property will pass according to the laws of intestate succession. But relying on these laws can be dangerous.

Finally, keep in mind that, in many states, as long as you're legally married, your spouse will retain elective share or community property rights to a portion of your estate. So while updating your plan soon after you decide to divorce can reduce the amount your spouse will receive if you die while you're still married, it can be difficult to disinherit him or her completely before the divorce is final.

Seek peace of mind

If you're going through divorce proceedings, please contact us. We can help review and revise your estate plan to ensure that the proper heirs are provided for upon your death.

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