

# Is It Time To Do Your Estate Planning?

(Take this simple test to see if it is.)



Under Control   Don't Know   Out of Control

(This test is provided as a courtesy by *Forrest J. Danley*, Attorney, The Danley Law Firm, P.C., 3233 East Memorial Road, Suite 101, Edmond, OK 73013, Phone: 405.478.9455, Website: [www.danleylaw.com](http://www.danleylaw.com), E-mail: [fdanley@danleylaw.com](mailto:fdanley@danleylaw.com).)

## 1. Have you prepared a will or a trust?

    

Without proactive planning, you are relying on Oklahoma law (and the Oklahoma legislature) to determine how your assets pass, to whom they pass, and when they pass. In addition to having potentially undesired results, this is perhaps the most costly and time-consuming means of passing your assets to your loved ones.

## 2. If you have done a will or trust, has it been reviewed in the last two years?

    

Our experience is that people view estate planning as an event rather than a process. Making your estate planning an ongoing process is vital to achieving the goals you set out to accomplish. An out-of-date estate plan may be worse than no estate plan at all.

## 3. Are all of your heirs over the age of 18 and financially responsible?

    

Your heirs will inherit assets at age 18 if you don't make other arrangements. Proper planning is crucial to prevent an heir from squandering his or her inheritance, or worse, from causing harm to himself or herself. You should take special steps to decide who will raise your children if you are gone and at what ages (& how) they will receive your assets.

## 4. Are you *absolutely certain* that your assets will not be subject to probate?

    

We encourage you to make a list of each asset you own and identify how (or whether) each asset will avoid probate. Assets owned as "joint tenants with rights of survivorship," assets owned in the name of a trust, and assets that pass by beneficiary designation (such as IRAs, life insurance, POD accounts, etc.) should avoid probate, if handled properly. Everything else is subject to probate. (Also, note that assets owned in joint tenancy are typically subject to probate upon the death of the last joint tenant.) Probate can be costly, time-consuming, and inconvenient and can cause conflict within your family.

## 5. Do you have assets titled jointly with a child or children, or someone else?

    

Holding assets jointly with someone other than a spouse is quite common but has some potentially devastating consequences of which most people are unaware. If you put your son's or daughter's name on your home or bank accounts, his or her creditors could very well make claims against those assets to satisfy the creditors' claims. A creditor could include a divorcing spouse, judgment creditor, IRS, or business creditor. Further, joint tenancy can cause tax problems and loss of control over the assets in certain circumstances. Make sure you fully understand how changing title affects you.

## 6. Does your current plan provide your heirs with asset protection, divorce protection, and lawsuit protection?

    

A common way to provide for heirs is with outright distributions. By doing so, however, the inheritance becomes subject to the creditors of your heirs (divorcing spouse, judgment creditor, IRS, business creditor, etc.). Through proper planning, you can protect your heirs' inheritance from creditors, poor spending habits, and substance abuse problems.

## 7. Is this your first marriage?

    

Second or subsequent marriages present unique planning issues, particularly if both spouses have children from a prior marriage. Proper planning is critical to prevent undesired results.

If you answered "**Don't Know**" or "**Out of Control**" to any of the above questions, please call Forrest Danley, Attorney at (405) 478-9455 to make an appointment for a free, no obligation, Initial Estate Planning Consultation to talk about your estate planning.