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Best Practices For Estate Planning Document Retention



by William J. Cotter

Clients frequently work with legal counsel to develop estate plans and business succession plans to protect their estates, minimize taxes and expenses, and make distributions to their intended beneficiaries in an orderly and efficient manner. This planning process generally culminates in the execution of a variety of physical documents that embody those instructions - such as Wills, trust agreements, powers of attorney, and so forth.

After completing an estate plan, there remains yet another plan to develop: a plan for retention of the original planning documents, copies of those documents, and other related and important records including life insurance policy binders, birth certificates, marriage certificates, tax returns, bank, financial and account statements, and the like. This article provides some guidance concerning which of among these documents should be kept, for how long and where.

These questions are increasingly important as people tend to amass numerous records and documents. Also, many of our personal records are quickly moving from paper to some form of virtual or electronic storage arrangement. Im-

portant records that document various important aspects of life (educational, medical, financial) arrive with nearly every mail delivery, and most firms with whom we all do business have privacy policies -- which they see fit to remind us of regularly.

Some people are, candidly, “pack rats” -- retaining monthly account statements and other records for ten years or more, even though they cheerfully concede that they rarely - if ever - review any of them. Some retain copies of tax returns going back 25 years or more. Obviously, much of this accumulation is simply unnecessary - either legally or practically.

Here are a few general rules of thumb to consider:

What Do I Need To Keep? And Its Companion: What Can I Safely Throw Away?

You can safely destroy bank statements and financial statements older than three years. Ditto tax returns. If you own mutual funds, it's wise to keep tax-related documents that show your cost basis in the funds. Many investors typically reinvest the dividends and other distributions from mutual funds. The tax returns can help you better determine your real cost basis in a fund when you sell, which is used in calculating the capital gains tax you may eventually have to pay upon sale. Birth, marriage and death certificates should be maintained permanently. Vehicle titles, insurance policies, and property deeds should also be kept. Generally, these items can be replaced through one governmental agency or another, but the replacement process isn't always fast - or free.

Should I have A Safe Deposit Box?

As a general rule, your original estate planning documents and other important documents you don't reference often, ranging from birth certificates to property deeds, are well-suited for safe-deposit box storage. Many advisors encourage their clients to keep physical records and computerized back-up copies of transactions and similar records in a safe-deposit box. We concur. But be aware: if a box is held in just one person's name, then a spouse or child could face some obstacles in accessing its contents. So it is a better practice to register safe deposit boxes in two names if you're going to use it to store vital records. As an alternative, at Coman & Anderson P.C., we offer to safe-keep our clients' estate planning documents in the Firm's own fire-proof Will safe in our office.

Here's another good practice: in a safe place in your home consider keeping a record of what's in your safe deposit box; several banks and brokerage firms either lost, or lost access to, their vaults in the World Trade Center collapse. Having a separate independent record will help you replace what's missing. If you keep a record of what's in your box on your computer, make sure someone else knows your password or other access information.

While photocopies of records are often sufficient, sometimes nothing but the original will suffice. Banks typically require a certified death certificate before they will grant permission for a non-owner to remove the contents of a safe-deposit box. Also, if you must implement instructions in a decedent's Will you need to have the signed original.

Is Home Storage Better for Any Documents?

Some clients prefer to retain their estate planning documents at home. If you choose home

storage for your own documentation, consider keeping the originals of these documents together with your life insurance policies, birth certificates, marriage certificates and even your passport in a secure place at home - such as a fireproof lock box or safe -- so that your family can access them in an emergency. This is particularly important with respect to health care directives (such as your Illinois power of Attorney for Health Care) for which quick access may be critical in a time-sensitive medical emergency.

How About Stock and Bond Certificates?

These, and other securities issued in your name are best kept in your broker's vault. Your broker will need the certificate in hand to complete any transaction. Moreover, it can be administratively challenging if you have to replace a lost certificate. Frequently a better solution is to have your broker hold your securities in "street name" which eliminates the need to possess physical certificates.

If you keep contract-based financial documents in a safe-deposit box, such as annuities or insurance policies, then keep at home a record of the name of the insured, the insurance company, the policy or contact number, and the approximate value. That will help you or your survivors more easily request a replacement document through the issuing company if necessary.

It's also a good idea to keep records of initial costs, renovations, home improvements and other papers that support the cost basis for your home. The same advice holds for home-business records.

Sounds Like Electronic - or Digital Storage is the Answer, Right?

Many, if not most, financial companies regularly transfer transaction-based data to digital im-

ages. Many banks do the same with your checks. But on the home front it is a little different. Scanning documents into a computer is great for future reference, and it can make tracking down an original substantially easier. It is a practice that we embrace with our “closed” files - including many completed estate planning files. But remember the caution stated above: records reprinted from scanned copies aren’t always useful legally. When it comes to using birth certificates or Wills or even automobile titles, you must have the original; otherwise you might find yourself administratively stymied.

Finally, one of the most critical things you can do is list what documents you have and *where* they can be located. And make sure family members and those who need access to them know where to find this master list. As part of our estate planning deliveries we will often provide clients with an *Estate Organizer* which is simply a form that clients can use to assemble this information for the benefit of their families, successor trustees and executors.

As always, if you have questions about which items should be retained, and which can safely be destroyed, feel free to contact any of the Estate Planning and Wealth Transfer Group at [Coman & Anderson, P.C.](#): [Daniel G. Coman](#), [Mark D. Anderson](#), [William J. Cotter](#), and [Lynn E. Cagney](#).

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