Trusts can make life much easier. They can make your financial position much safer. But like your house and your car, your trust won't keep doing its job if you completely ignore it.

Your trust was created based on information in effect and needs anticipated at one specific point in time. That time has passed. Since then, many circumstances in your life or your family's life may have changed. Laws may have been amended or interpreted differently by the courts. The provisions in your trust that made the most sense at the time you established the trust may no longer be advantageous.

When a trust is out of date, its provisions can cause more harm than good. While that may not be the case with your trust, there may be provisions that could lead to unnecessary delays or expense, or that would direct assets in a way that you never intended. To avoid potential problems and ensure that your trust can continue to do what you created it to do, it is a good idea to review its terms periodically with your estate planning attorney.

Reasons Your Trust Might Need Adjustments

You might remember the general goals you had when you established your trust, but you are unlikely to remember all the details. And those details can make a tremendous difference in how your trust functions during your lifetime and after you've passed.

Did you include a provision in your trust that allows your successor trustee to manage your property if you become incapacitated? If not, you might want to add that type of provision to ensure your bills are paid, and your household can continue to function if you're unable to manage it.

Do you know who your successor trustee is? Do you know what they are expected to do? Do they understand the duties? Do you still believe the person you named is the best person for the job? Have you nominated an alternate in case your successor trustee is unable to serve? These are all critical issues that could cause problems, and you need to review to see whether changes or additions are necessary.

It is also important to review your trust to update provisions that were tailored to laws that are no longer in force. Finally, it is wise to review assets in the trust and your property inventory. It may make sense to move certain assets out of the trust or to add assets currently outside the trust.

When you're working with a revocable trust set up to avoid the need for probate, you can change the terms at any time so long as you remain legally competent. If you develop dementia or another condition that degrades your mental faculties, or you lose consciousness due to an illness or injury, then you will not be able to make changes. The time to make adjustments is now, while you're in good health.

If you want to make changes in an irrevocable trust, the process will be much more difficult. These types of trusts are much more rigid, which can help protect assets. However, depending on the terms and the modifications you want to make, your estate planning attorney may be able to help you make amendments, particularly if you have the support of the beneficiaries.

Finally, if your will includes a testamentary trust for your children or other beneficiaries, it would be wise to review those terms to see whether the financial guardian you've nominated is still the best choice and whether provisions make the most sense given the changes that have occurred since the time you created the document.

Scheduling Trust Reviews: The “Rule of Three”

Life moves quickly, and it can be hard to remember when you made or changed provisions in your trust. One helpful tool for determining whether it’s time to renew your trust is to consider three issues (which is why we call it the “Rule of Three.”)

1. Have there been any changes in the family’s marriage status? Because Texas is a community property state, marriage has a profound impact on property rights. If you or someone in your family got married or divorced since your last estate planning review, it’s time to schedule an appointment with your attorney for updates.
2. Have there been any changes in children or dependents? Your trust allocations may need to change if a child has been born or adopted. But it may also be wise to make adjustments if you or your loved ones have shifted from child-raising to empty-nest status. Your focus gradually shifts from protection to planning for future distribution.
3. Have there been any deaths in the family that would affect the provisions of your trust? Someone you named as a trustee might still be living but no longer be able to fulfill the role because of new obligations they’ve taken on following a death or a change in circumstances.

Even if you have not experienced one of the big three changes, other incidents can also trigger the need for change. If you moved to a new state, for instance, you need a trust created with your domicile’s laws in mind. Although it may seem like nothing has changed since you created the trust, it is a good idea to review the terms every three to five years to check for changes in the law or issues you may not have considered.

Strategic Adjustments When There Are Changes in Finances or Health

The management and allocation strategies you set up at the time your trust was created were based on your economic situation and health status at the time. If these factors have changed significantly, you may want to adjust your plans.

For instance, if you bought real estate, you need to decide whether to include the property in your trust. If you need to have a deed created listing the trust as the owner of the property. If you've started a business, plans for allocation of assets and succession should be included in your trust or elsewhere in your estate plans. If you received a substantial gift or inheritance, it is important to review the assets involved to determine whether they should be added to the trust.

Before meeting with your attorney to discuss the trust, it is a good idea to inventory your assets in detail. Then you can review them with your attorney to ensure that they all have a plan for management in case of your incapacity and for distribution after you pass. If assets are left out of your trust and not set up to pass directly through other means, such as a beneficiary clause, then they will become part of an estate. Your loved ones will need to go through the probate process to obtain those assets, adding expense, delays, and uncertainty to the process of winding up your final affairs. Having assets unexpectedly pass through an estate can also alter your plans for distributing assets equally or in accordance with a specific scheme.

Health changes could also necessitate financial adjustments. While reviewing trust terms, it is also a good idea to ensure that healthcare planning documents are up to date. This includes a medical power of attorney and a living will.

Adapting to Changes in The Law

Federal and state laws are being adjusted all the time, and unless the changes capture the imagination of journalists, the changes often get little attention, even if they could have a significant impact on your estate plan. One reason it is important to review your trust and other plans regularly with your estate planning attorney is that your legal advisor will always be watching for changes that could affect your plans now and in the future.

Amendments in the law might make it preferable to move certain assets into or out of your trust. They might require you to take additional steps to protect yourself or your loved ones. By checking in periodically with your estate planning attorney, you can feel confident that your plans will still proceed as you expect.

Schedule a Trust Review with April Nordhaus

The good news is that reviewing and updating your trust or other aspects of your estate plan is not nearly as complex as creating plans from scratch. A straightforward review of your assets, goals, and the tools in place to achieve those goals will reveal the need for legal adjustments. Then your attorney can explain your options and help you make those adjustments.

At The Nordhaus Firm, we know that estate planning can be overwhelming, and it is not a task anyone looks forward to. But we also know how important it is to ensure that every detail is correct, and how seemingly minor changes can make a big difference in the outcome. We invite you to schedule a free consultation to discuss the assistance we can provide to protect your future and the well-being of your loved ones. To get started,

just call us at 214-726-1450 or contact us online today.