

UPDATING YOUR ESTATE PLAN WHEN MOVING OUT OF STATE

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Estate planning is essential for directing what happens to your assets after you die or can't make decisions. A good estate plan can help you pass on wealth and reduce taxes, legal problems, and emotional stress for your family. A complete set of estate documents can include your will, trusts, powers of attorney, healthcare directives, and more.

You should update these documents as laws change and your circumstances evolve, such as moving to a new state. While estate documents executed properly in one state may hold up in your new state, a proactive review can help you understand specific laws and differences to:

- Identify any necessary revisions that are pertinent to your new state.
- Resolve any issues involving the administration of trusts.
- Address any state-specific tax issues.
- Avoid delays should you become incapacitated.

FIVE ESTATE CONSIDERATIONS WHEN RELOCATING

1 | Establishing Domicile

Declare Your Permanent Home

Your state of domicile is the state where you intend to make your permanent home. If you retain a residence

in another state and do not properly establish domicile, there can be substantial income tax consequences. You must keep records to establish your domicile, which can be onerous and may need to be done before you move. Updating your estate planning documents to reflect the laws of your new home state can provide evidence of your intent to change your domicile.

2 | Wills and Trusts

Align the Right Appointees for Your Estate & State

When you move, you might consider appointing someone local as the executor and/or trustee. If your estate consists of tangible personal property or real estate, an out-of-state executor could be burdened with traveling back and forth to complete administrative tasks. In addition, make sure your appointee meets the requirements to serve as an executor in your new home state. In some states, an out-of-state executor needs to post a bond to serve in this capacity.

You'll also want to determine if your move subjects your trust to tax in your new home state. If you have an irrevocable trust, many states consider the domicile of the grantor (the person who created the trust), the trustee, and the beneficiaries when determining if the trust is required to file income taxes.

3 | Powers of Attorney and Healthcare Directives

Stay Compliant with Your New State

Laws about powers of attorney and healthcare directives differ by state. Your existing directives should remain valid in your new state if they were executed properly in the state they were created. However, a document could be rejected if specific forms or terminology used in one state are not recognized in another state.

In addition, make sure the people you have in place for your power of attorney and healthcare proxy are still the right choice—and can fulfill their duties effectively. If you have appointed someone who lives far away, it may be difficult for him or her to perform actions on your behalf.

4 | Income and Estate Taxes

Minimize Burdens and Optimize Generational Wealth

Estate and inheritance taxes can have a negative impact on your beneficiaries. This is significant as 12 states and Washington, DC currently have an estate tax, and four states have an inheritance tax.

Wills and revocable trusts often contain clauses that fund trusts upon an individual's death with the maximum amount of money that can pass free of state and federal estate tax (often referred to as credit shelter trusts or CST). However, because the estate tax exemption differs by state, the amount

ultimately funded could differ meaningfully from the original intended amount depending on the estate tax exemption in your new home state at the time of death. For married couples, an estate plan often funds a CST with the maximum amount that can pass free of state and federal estate tax. The balance of the estate is then often used to fund a marital trust.

For example:

- If a couple resided in New York and one spouse died in 2024, the CST would be funded with a maximum amount of \$6.94 million, the current New York estate tax exemption.
- However, if the couple moved to Florida and never changed their documents, that amount would increase substantially because Florida does not impose an estate tax. In that case, the trust would be funded with a maximum amount of \$13.61 million, the federal exemption amount for 2024 (minus any exemption used during the deceased spouse's lifetime).
- If there are other beneficiaries, this could lead to a difficult situation for the surviving spouse if the goal of the trust was to provide for the remainder of his or her life.

Conversely:

- If the couple moved from Florida to New York and funded a CST with the maximum amount that can pass free of federal estate tax (without referencing state limits), a New York estate tax may be due upon the first spouse's death.
- The trust would be funded with \$13.61 million, which exceeds the New York estate tax exemption.

¹States that impose an estate tax: Connecticut, District of Columbia, Hawaii, Illinois, Maine, Maryland, Massachusetts, Minnesota, New York, Oregon, Rhode Island, Vermont, and Washington. States that impose an inheritance tax: Iowa, Kentucky, New Jersey, and Nebraska.

Your estate planning team can help you understand the specific tax laws in your new state and make any necessary updates or adjustments to your planning documents.

5 | Community Property States

Review the Title of Your Assets

The titling of your assets is critical to consider if you are moving to or from a community property state.²

Upon the first spouse's death, community property receives a full (100%) step-up in the tax cost basis. However, if you convert community property to jointly owned property, the surviving spouse will only receive a partial (50%) step-up in the tax cost basis. If you own low-cost basis assets and you contemplated an increase in basis upon the first spouse's death, this could generate unanticipated capital gains taxes or require the surviving spouse to hold a particular asset for longer than he or she intended.

First Manhattan – Stay in the Know

Knowledge is a crucial asset for estate planning and securing your family's future. Know what documents you need and keep them up to date, as laws and your situation may change. First Manhattan can help you understand estate planning and the effects of moving to a different state. We can also help you determine if any of the assets held in your portfolio (particularly municipal bonds) need to be adjusted. In addition, we can work with your lawyers and accountants to ensure a complete and up to date estate plan. Talk to your First Manhattan team.

²Community property states: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.



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