The Estate Audit: What You Hope Is Done Before Mom Dies Or... An Ounce of Prevention Is Worth a Pound of Cure

Josh Yager

This Estate Planning article highlights the use of an estate audit, a proactive structured review of a client's estate plan and assets before death, to prevent complications, delays, and family disputes during post-death estate administration.

INTRODUCTION

Managing a post-death administration is challenging, even for experienced trust and estate attorneys. In many practices, it is not a top priority—often relegated to lower-rate clerical work compared to the higher-value drafting of estate plans. A recent survey of 100 solo trust and estate attorneys across the U.S. found that revenue from post-death administration—trust settlements or probate—accounts for less than 30% of the average practice's revenue.[1] This suggests that the work is not a primary focus for many colleagues, and low demand is likely not the cause. For non-professional successor trustees—typically family or friends without relevant training—the process can be especially complex and time-consuming. Loose ends are the root of most difficulties, whether for professional advisors (attorneys, CPAs, and investment advisors) or lay trustees. Unresolved details—unclear asset ownership, mismatched beneficiary designations, missing documents, or absent executor instructions—cause confusion, delay, and often family disputes. Addressing these issues requires investigation, paperwork, coordination with financial institutions, and sometimes legal intervention. In short, it is the unattended details, not just the legal documents, that make post-death administration slow, costly, and emotionally charged. By resolving these loose ends before death—through an Estate Audit—families and professionals can reduce the complexity, cost, and stress of settling an estate.

THE "GRAY WAVE"

An unprecedented wave of estate settlements is on the horizon, and most practitioners are unprepared. Baby boomers, who typically make up over two-thirds of the client base for CPAs, investment advisors, and estate planning attorneys, are entering the final stage of their lives with dangerously outdated estate plans—many written before Google even existed.

Of the 90 million Americans born before 1964, roughly 80% (over ~70 million people) will pass away in the next 20 years.[2] Even if we assume half of these individuals have estates under $100,000 and do not require significant legal or technical support, that still leaves over 35 million people who will need some form of post-death administration, whether through a probate or a trust settlement. This surge in demand will hit just as the number of experienced trust and estate attorneys, paralegals, and judges is shrinking, as our most seasoned colleagues—many of them boomers themselves—begin to retire.

THE ORPHAN CASES

Over the next decade, our practices will likely experience "orphaned" estate cases. An "orphaned case" – a term developed by the author – is one where the drafting attorney is no longer available to help the family clean up the "loose ends" referenced above, because they are too busy, retired, or dead. These cases often arrive during the client's moment of personal crisis, without the guidance of the counsel who originally created the plan. As more of our professional peers retire, the volume of these orphaned cases will grow.

To effectively serve these clients, practitioners need a rapid, standardized method for evaluating the current plan's effectiveness. We call this the Estate Audit. It is a structured investigative process designed to identify and resolve the most common impediments to a smooth estate settlement before a client passes away, while changes can still be made. This approach consists of six distinct investigative steps that can be efficiently integrated into a variety of professional advisory practices, whether you are a CPA, an investment advisor, or an estate planning attorney.

THE ESTATE AUDIT: BEYOND THE DOCUMENT

The purpose of an Estate Audit is to identify and remove those issues that may create delays, disputes, or unnecessary costs during the post-death administration. It is a disciplined, end-to-end review designed to ensure a client's estate plan is current, accurate, and consistent with their objectives and the law. Many clients assume that settlement problems stem mainly from outdated language in the trust document, but after administering hundreds of estates, I have found that the greatest risks often lie outside the "four corners" of the document. While some delays are rooted in the trust's language, most are not. Meaningful risk reduction requires looking beyond the document itself. For this reason, an Estate Audit examines six critical areas to identify and remove obstacles to the eventual settlement.

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1. **The Trust Document:** Review the trust to determine if legal language, family circumstances, or client objectives require updates.
2. **Balance Sheet & Asset Titling:** Compile a complete, documented balance sheet while verifying that all assets are properly titled to avoid probate.
3. **The "Treasure Map":** Assemble key information and documents that will speed up settlement and prevent delays for the successor trustee.
4. **Risk Assessment:** Identify and address common pitfalls that can derail estate settlements before they become serious problems.
5. **Work Plan:** Translate the general duty of "settling the estate" into a clear, step-by-step checklist tied to the assets within the estate.
6. **Estate Vault:** Create a secure, organized digital repository for all critical estate documents and instructions.

By resolving these loose ends before death—through an Estate Audit—families and professionals can reduce the complexity, cost, and stress of settling an estate.

Let's take a closer look at each of these six critical areas of the Estate Audit in more detail.

The Document Review

The initial step in an Estate Audit is a comprehensive review of the trust document itself. This is critical because a trust is a contract whose terms can become outdated due to changes in law, evolving client objectives, or shifts in drafting best practices. The review acts as a risk assessment, evaluating the existing language to identify clauses that might complicate the ultimate settlement of the estate.

The following are common risks that should be looked for when reviewing a trust document:

Mandatory Bypass Trust Funding.

Twenty years ago, when the federal lifetime estate and gift tax exemption was much lower, it was common practice to mandate the funding of a bypass trust at the first spouse's death to minimize estate taxes. With the exemption now significantly higher (e.g., currently around $14 million per spouse), the need for mandatory funding has diminished for most families. Creating a bypass trust adds administrative work, and "portability" now allows a surviving spouse to use the deceased spouse's unused exemption without it. Checking if mandatory funding exists and recommending a simple amendment to change "shall be funded" to "may be funded," can significantly streamline the settlement process.

Successor Trustee Readiness.

If a trust was created years ago, the successor trustee was likely a contemporary of the settlors; oftentimes a sibling or family friend. However, this individual may now have cognitive or health constraints that could make the complex project of settling an estate challenging. Similarly, naming all children as co-trustees, often to avoid offense, can create significant complications. This setup can lead to delays as financial institutions may require all trustees to sign on every transaction, a problem exacerbated by geographic dispersion.

Trust Protector.

We examine the presence or absence of a "trust protector." This relatively new drafting convention, adopted from European law, designates an individual—typically a trusted non-family advisor—with limited authority. A trust protector can amend the trust for tax purposes, remove a misbehaving trustee, or act as a tiebreaker in sibling disputes, offering a valuable layer of oversight without the full responsibility of a trustee.

Trustee Compensation.

Many trusts state that the successor trustee is entitled to "reasonable compensation" without defining how it should be calculated. This ambiguity can lead to significant disputes among beneficiaries, especially when a family member is acting as trustee. If a professional is named, they will expect compensation, making explicit terms essential to minimize conflict.

Outdated Specific Bequests.

Specific bequests to individuals or charities should be reviewed to ensure they still reflect the settlor's current relationships and intentions. Over time, a once-close relationship with a beneficiary or favored charity may have diminished, making a gift that was appropriate 20 years ago no longer consistent with the settlor's objectives. In other cases, the amount specified years ago may have lost its intended impact—for example, a $20,000 gift to each grandchild for college expenses that now barely covers a single semester.

Disinheritance or Unequal Allocation.

We look for any disinheritance or unequal allocation of the residue or specific bequests to one family over another. This is often an area of high emotional risk that can lead to family disputes and costly litigation.

Schedule A.

The document review includes a thorough examination of Schedule A, which lists the assets assigned to the trust. It's important to update this schedule to reflect assets acquired or retitled since the trust was drafted.

While the trust document provides the legal framework, a perfectly drafted plan is useless if the assets aren't properly titled, which is why the next phase of the audit focuses on the balance sheet and asset vesting.

Balance Sheet and Asset Vesting

Beyond the intricate details of the trust document, a crucial component of the Estate Audit is creating a comprehensive and detailed balance sheet. This balance sheet serves as a curated inventory of all assets and liabilities held by the settlors at the time of the audit. Its primary purpose is to investigate how these assets are titled or "vested," which is critical because assets not correctly titled in the name of the trust will not be governed by the trust's terms. Consequently, such assets may be subject to a probate process, which can be both expensive and time-consuming.

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The process of constructing the balance sheet begins by identifying the client's most valuable assets, such as their primary residence, investment properties, or investment accounts. For each asset, the balance sheet records each asset's estimated value, location, and any debt secured against the asset.

Vesting Review.

A key step is to verify the ownership of these assets. This involves pulling deeds for real estate and checking vesting on investment accounts to confirm they are correctly titled in the trust's name. For non-probate assets like IRAs, life insurance policies, or annuities, which transfer outside probate based on the beneficiary designations, the advisor should obtain the current beneficiary records from the financial institution. A common and significant risk identified during this review is outdated beneficiary instructions. For example, if an IRA names a spouse as the primary beneficiary without a contingent beneficiary identified, and the spouse predeceases the account owner, the asset may be subject to probate. This scenario occurs with frustrating regularity.

The "Source of Truth."

To ensure accuracy and provide reliable support for each asset listed on the balance sheet, a "source of truth" for every item should be collected. A "source of truth" is documentation that proves the existence and vesting of each asset. For a house believed to be in the trust, the source of truth is a copy of the deed. For IRAs believed to pass first to the surviving spouse and then to the kids, the source of truth is the beneficiary instructions held by the custodial institution. No longer can we rely upon the settlor's memory for these important details. These supporting documents are vital not only for verification but also for providing crucial information for the successor trustee during settlement, such as contact details for financial advisors, account numbers, and asset values on specific dates.

While a verified balance sheet is essential for understanding the financial components of the estate, it often fails to capture the critical non-financial information needed to execute the plan smoothly—a void filled by our next tool, the treasure map.

The Treasure Map

The next element of the Estate Audit is the "Treasure Map"—a repository of vital information that, while not strictly asset-specific, is incredibly important for the efficient settlement of an estate and is often overlooked in traditional planning. This part of the audit compiles crucial details that, if documented beforehand, can significantly expedite the successor trustee's work.

> Many clients assume that settlement problems stem mainly from outdated language in the trust document, but after administering hundreds of estates, I have found that the greatest risks often lie outside the 'four corners' of the document.

This is a comprehensive checklist designed to capture key information, which includes, but is not limited to the following:

1. **Trusted Advisors:** A list of the parent's most trusted advisors, including their CPA, attorney, life insurance agent, property manager, and even their pastor. Having their names, emails, and phone numbers readily available can prevent significant delays and frustration for the successor trustee.
2. **Passwords:** In our digital age, access to online accounts is essential. The Treasure Map documents where the parents keep their passwords—whether in a physical binder, a secure Google Doc, or a dedicated password manager—saving countless hours of searching.
3. **Hidden Valuables:** It prompts inquiries about less obvious valuables, such as stashed cash, jewelry boxes, coin collections, et cetera. For valuable collections, it's useful to document information about local dealers, trusted appraisers, and any numismatic value of items beyond their material worth.
4. **Specific Bequests:** This section addresses the disposition of non-divisible assets. For example, if a parent owns a classic car and has multiple children who may desire it, documented instructions on its disposition can prevent potential family disputes.
5. **Safety Deposit Boxes:** It is not enough to simply have the key; the map specifies which bank and even which branch the box belongs to, as keys typically only indicate the box number.
6. **Family Loans:** The map clarifies the status of any financial assistance parents may have given to a child, ensuring it is properly documented as a gift or a loan to be applied against their inheritance. This prevents arguments and misunderstandings among siblings after the parents' passing.
7. **Other Key Information:** The Treasure Map serves as a catch-all for other crucial details that can streamline the settlement process.

By compiling all of this critical, non-financial information, the Treasure Map reduces ambiguity and prevents countless future headaches. However, the most challenging risks often stem from family dynamics, requiring a dedicated risk assessment to identify and mitigate potential conflicts before they arise.

Risk Assessment

A critical phase of the Estate Audit is the comprehensive risk assessment, designed to proactively identify potential issues that frequently impede the smooth and efficient settlement of an estate. Based on extensive experience settling numerous trusts, certain common themes have emerged as high-risk factors that can lead to delays, frustration, and higher costs. While it is rare for all risks to be present in a single estate, identifying even one or two ahead of time can be incredibly beneficial. The audit is designed to address these issues while the clients are still alive, as

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fixing problems after death is significantly harder.

The following are the top 10 most common risks seen in an estate audit. A more comprehensive list of risks can be found in Exhibit A.

1. **Improper Asset Vesting:** Verify how assets are titled. For real estate, the deed must explicitly state the property is owned by the trust. For investment accounts, confirm they are titled in the trust's name, not just the individual names of the settlors. Out-of-state real estate is a particularly high risk, as improper titling can necessitate a costly ancillary probate.
2. **Difficult-to-Manage Assets:** Unique assets like oil and mineral rights, author royalties, patents, or fractional ownership in operating businesses can be challenging to value or liquidate.
3. **Lack of Recent Tax Returns:** If the settlors have not filed tax returns for several years, this oversight needs immediate attention to avoid tax complications for the estate.
4. **Small IRA Accounts:** While seemingly minor, transferring small IRAs can involve extensive paperwork. The audit may recommend simplifying the process by terminating these accounts and transferring the net assets directly into the trust.
5. **Conflicts over the Family Home:** The disposition of the family home is often the most emotionally charged asset. Conflicts can arise if a sibling is living in the house rent-free and wants to stay, or if one beneficiary wants to buy the home from the trust but the price is in dispute (e.g., market value versus a "sweetheart deal").
6. **"Sell vs. Retain" the Family Home:** Disputes emerge when some beneficiaries want to sell the family home for cash, while others want to retain it as a rental property and invest trust assets for repairs.
7. **Co-owned Real Estate with Non-Family:** Co-owning a property with a non-family member, such as a hunting cabin owned with cousins, can complicate the settlement.
8. **Outdated Beneficiary Instructions:** A prevalent risk for non-probate assets like IRAs and annuities is outdated beneficiary designations. A common scenario is when a primary beneficiary predeceases the account owner, and no contingent beneficiary is named, which can force the asset into probate.
9. **Disinheritance or Unequal Allocation:** The disinheritance of a child or the disproportionate allocation of assets is a significant risk factor that can trigger financial and emotional disputes. The audit ensures that the reason for such a decision is clearly articulated in the document to minimize potential litigation.
10. **Low Documented Family Loans:** When one sibling has received more financial support over their lifetime, other siblings may view those payments as an advance on the recipient's inheritance, while the recipient may believe they were simply generous gifts from their parents. Without clear documentation, these differing expectations can create misunderstandings and conflict during estate settlement.

Proactively identifying these common risks allows for strategic, pre-emptive solutions. The Estate Audit's next step is to draft a detailed work plan that guides the successor trustee.

The Work Plan or Settlement Checklist

The prior investigations within the Estate Audit mature into a detailed and actionable work plan for the successor trustee. This comprehensive plan is a step-by-step checklist, tailored to the specific assets, documents, and potential risks identified within the family's unique estate. Its purpose is to provide the trustee with crystal-clear guidance on what tasks need to be accomplished, precisely when they should be done, and in what logical order.

The work plan covers the entire spectrum of estate settlement duties, from early administrative actions like securing official death certificates and notifying relevant institutions, to asset-specific tasks such as re-titling accounts or liquidating assets. It also addresses longer-term duties, including the funding of sub-trusts or the preparation and filing of final tax returns.

A key feature of the work plan is its clear distinction between tasks that family members can reasonably undertake themselves and those that require the specialized expertise of legal, tax, or financial professionals. This distinction is important because it empowers the trustee to manage the process effectively, preventing common mistakes, avoiding the duplication of efforts, and ensuring no critical task falls through the cracks.

> The Estate Vault is a secure, centralized digital folder designed to house all the critical documents, instructions, and contact information that a trustee will need when the time comes to settle an estate.

Ultimately, this settlement checklist transforms the often-overwhelming responsibility of "settling the estate" into a clear, manageable, and traceable "to-do" list. This structured approach allows the trustee to delegate tasks and track their completion, making the entire administration process significantly less daunting. However, a roadmap is only useful if the necessary documents are readily available, which is why the work plan is seamlessly complemented by the Estate Vault.

The Estate Vault

Complementing the Estate Audit and its resulting work plan is the crucial concept of the Estate Vault. The Estate Vault is a secure, centralized digital folder designed to house all the critical documents, instructions, and contact information that a trustee will need when the time comes to settle an estate. It acts as a single, organized repository, eliminating the need for families to frantically search through disorganized file drawers

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Exhibit A: Comprehensive Risk Assessment List
Risk Assessment
Not every risk outlined here will apply to your situation—but the few that do can, if addressed now, dramatically reduce the time, cost, and burden of the eventual post-death administration.
Trust Document • Is there mandatory funding of the bypass trust at the first settlor's death? • Are multiple children listed as co-trustees or co-executors to avoid offending anyone? • Is the named successor trustee a friend or relative of Mom and Dad who may no longer be able to manage an estate settlement? • Does the list of specific gifts to individuals or charities need updating?
Investment Accounts and Financial Institutions • Do Mom and Dad have more financial accounts than necessary, making consolidation advisable? • Is there a safe deposit box or storage locker, and does the executor know the location of both the box/locker and its key? • Does Mom have multiple credit cards that should be documented and reviewed?
Non-Probate Assets • Do beneficiary instructions for any non-probate assets (IRAs, 401ks, life insurance, annuities) conflict with the estate plan? • Is there a copy of the beneficiary designation for each non-probate account? • Are the kids named directly as beneficiaries of Mom's IRA, or is the trust the beneficiary—and is that the best choice? • Has a joint owner been added to any bank account, potentially overriding the trust's distribution plan?
Personal Property / Sentimental Items • Are there collectibles of little value that may cause disputes or require decisions? • Are there assets that cannot be easily divided and may cause friction during settlement? • Are there valuable coins, bullion, gems, or jewelry that require appraisal or sale? • Are there collectible coins (e.g., Franklin Mint proof sets) that need valuation? • Has cash or other valuables been hidden around the house?
Family Home • Is the home titled in the trust? • Will the home require significant cleaning before sale or distribution? • Is there deferred maintenance that should be addressed now? • Are any family members living in the home who may resist moving out after Mom's death? • Will deciding whether to sell, renovate, rent, or distribute the home be difficult? • Is there a plan for determining the home's value if a family member wants to buy it?
Investment Real Estate • Is investment real estate owned by the trust? • Do Mom or Dad co-own real estate with relatives or others? • Is there a copy of lease agreements for any rental properties? • Does Mom have real estate in another state that could require ancillary probate?
Business Interests / Unique Assets • Are there unique assets that are difficult to value, manage, insure, or transfer? • Are there records of personal loans to children that need to be addressed in the settlement? • Is there an operating or co-tenancy agreement for any syndicated real estate investments? • Should a timeshare be disposed of before Mom's death?
Executor / Successor Trustee • Has the successor trustee or executor ever settled an estate before? • Is there a detailed task list for settling the estate? • Is there an up-to-date balance sheet with verified sources for each estate asset? • Could there be disagreements among beneficiaries about which assets to liquidate versus distribute in-kind? • Will the trustee/executor need help preparing required legal and tax notices? • Will the trustee/executor be compensated, and is there agreement on what is reasonable? • Was Dad's estate fully settled, or does it still need to be resolved? • Should an estate tax return be filed now to preserve Dad's unused exemption?
Parties to the Settlement • Is there a complete contact list for all key individuals and advisors involved in the estate? • Is the drafting attorney retired, unavailable, or otherwise unable to help with settlement?

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and email inboxes during an already stressful period.

The contents of a comprehensive Estate Vault are extensive and invaluable. They include, but are not limited to:

1. **Legal Documents:** Trust and will documents, health care directives, and powers of attorney.
2. **Asset Information:** Deeds, life insurance policies, and current account statements.
3. **Practical Necessities:** Passwords, funeral instructions, and a comprehensive list of professional advisors (CPAs, attorneys, financial planners, etc.).

Having all this information organized and readily accessible transforms a difficult time into a more manageable one, significantly reducing the pressure on surviving family members. When implemented using online platforms like Google Drive or Dropbox, the Estate Vault greatly assists the successor trustee by providing a centralized location for all necessary documents, notes, and statements.

CLOSING

The Estate Audit offers families a crucial opportunity to address the often-unfinished business of estate planning while there is still a window of time for corrections and improvements. By the time a loved one passes, their affairs will either be in order or they will not—there will be clarity or confusion, a smooth path or a costly, emotionally draining mess. The Estate Audit is not about altering the inevitable reality of loss; rather, it is about thorough preparation for it.

This comprehensive Estate Audit process extends beyond merely reviewing documents or verifying account titles. It is fundamentally about helping the aging settlor have peace of mind that the settlement of their estate will be blessing rather than a burden on their heirs. The audit provides the successor trustee with a clear, actionable roadmap and the crucial confidence that is needed to navigate the complex settlement process. Ultimately, it aims to position the family to grieve effectively and heal, without being overwhelmed by a mountain of paperwork or unexpected surprises. For any family or attorney unsure if a plan is truly in order, the most prudent course of action is to assume it is not—and to act accordingly.

End Notes

[1] Author's survey of 100 solo practitioner Trust & Estates attorneys throughout the U.S.

[2] ~75m Baby Boomers and ~15m Silent Generation. Using the SSA 2022 period life table (https://www.ssa.gov/oact/STATS/table4c6.html), 20-year mortality rises steeply with starting age—~39% at 61, ~52% at 65, ~71% at 70, ~88% at 75, ~97–98% at 80, and ~99%+ once you start at 85–90. Averaging those age-specific 20-year mortalities across a uniform distribution of ages 61–100 lands near 86%. This is a period-table view (today's mortality rates held constant); cohort improvements would shave it slightly, but not enough to change the headline.

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