



SHOULD YOUR ESTATE PLAN BE UPDATED?

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UPDATING YOUR ESTATE PLAN

Estate planning involves arranging our affairs to provide for the orderly management and disposition of our property, therefore, the related documents need to be kept current.

The primary concerns of an estate plan should include:

- Being sure the right people receive our property, at the right time, with the proper restrictions, with appropriate management.
- Minimizing publicity, expense and inconvenience, including avoiding probate when appropriate.
- Minimizing taxes payable on account of or following death.
- Making any desired charitable or special gifts.
- Maximizing opportunities to protect assets.

Changes in your wishes, the factual circumstances and the law regarding any of the above items could necessitate updating your estate plan. The following sections examine some of the specifics in these areas.

CONCERNS WHEN UPDATING YOUR ESTATE PLAN

BENEFICIARIES

When a Will, Trusts, beneficiary forms or other arrangements are used to transfer assets upon our disability or death, having the right timing, management and distribution provisions is critical. Some of the things that might change, necessitating updates, include:

- Are the beneficiaries named still those you intend to receive assets?
- Should other beneficiaries be added?
- Are there children, grandchildren or others that need special management over their inheritance due to difficulties they are encountering?
- Do parents or others need support?

- Are charitable beneficiaries current?
- Should distributions be made discretionary?
- Should distributions be made only if beneficiaries take certain actions, ("incentive trust provisions")?
- Should the timing of distributions be changed?
- Should generation skipping tax allowances be used?
- Should distributions be restricted so beneficiaries can qualify for Medicaid or other benefits?
- Do beneficiaries need creditor protection?
- Can beneficiaries be located?

WHO SHOULD BE IN CHARGE?

An estate plan specifies who should be in charge of making decisions during incapacity or at death. Examples include: the personal representative, trustee, patient advocate and guardians. Successor parties need to be named, perhaps several.

With regard to who is in charge, innumerable events can necessitate changes:

- Individuals have died, moved, lost contact or lost your confidence.
- Children may have become mature enough to be added or substituted for others previously named.
- Different trustees may be named for the trusts of different beneficiaries.
- Using an institutional trustee may be wise.
- Institutions may have changed names.
- You may want an investment advisor or trust protector named to assist trustees.
- Guardians may no longer be needed.

TAXES

Minimizing taxes payable on account of or following death continues to be an important concern in estate planning. Congress continues to modify the

estate, gift, generation skipping and income tax rules. A plan that has not been updated recently should be reviewed to consider:

- The current Federal Estate, Gift and Generation Skipping Tax exclusions.
- Gifting opportunities.

GENERAL CONCERNS NECESSITATING AN ESTATE PLAN REVIEW

Several general concerns can necessitate changes to an estate plan, including:

- Do necessary individuals know where relevant documents and advisors are?
- Should special preambles regarding religious values or other instructions be added to present documents?
- Is there a current list to help in locating assets upon death or disability?
- Is a letter making special gifts of personal property needed?
- Should information regarding digital assets be prepared?
- Have trusts been funded, changing the ownership or beneficiary of assets as appropriate?
- Has real estate located in other states been properly documented? Such assets can be subject to probate where located and in the decedent's state of residence.
- Have beneficiary designations of IRAs, retirement plans, life insurance and annuities been integrated with other estate planning documents?
- Are wishes clear regarding heroic medical treatment, organ donations, cremations, funeral, burial and the like?
- Is information for an obituary easily available?

FACTUAL CHANGES NECESSITATING AN ESTATE PLAN REVIEW

The following factual changes should prompt a review of an estate plan for those involved:

- Marriage, divorce, remarriage, adoption, death or birth of anyone in the family.
- A significant change in net worth, including an inheritance.
- A significant change in life insurance coverage or need.
- A change in the state of residence.
- A change of name.

- A change of citizenship.
- Any other significant change in family or financial circumstances.
- A change regarding who should receive an inheritance.
- A change of when an inheritance should be received.
- A need to protect a beneficiary.
- Concern whether the current estate planning arrangements are "working".

WHAT SHOULD YOU DO NEXT?

Contact one of our attorneys for additional information about updating your estate plan.

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This publication does not attempt to give specific legal or tax advice. For advice in particular situations, the services of competent legal, tax or financial planning advisors should be obtained.