



When should you review your estate plan?

You should consider revisiting your existing estate plans to ensure that your plan:

- a. meets your current family objectives;
- b. conforms to ever-changing federal and state estate tax rules; and
- c. is being properly implemented.

Here are some questions that may help you determine if your current plan needs to be reviewed:

1. Has your estate plan been reviewed within the last three to five years? We generally recommend that your estate plan be reviewed every three to five years to ensure that it still conforms to your wishes and any tax objectives originally incorporated into the plan. Such a review has become especially important in recent years, with the increasing federal estate tax exemption. If an estate plan was prepared before 2001, it may be in particular need of review. If it was prepared after 2001 but more than three to five years ago, when the federal exemption was \$1,000,000 or \$1,500,000, it may still be a good idea to review that plan to determine whether any changes are needed in light of the increasing exemption or for non-tax reasons.

2. Have your family or financial circumstances changed significantly since you last reviewed your plan? If your family or financial circumstances have changed significantly (e.g., divorce, death of a spouse, death or incapacity of a designated fiduciary, agent or sole beneficiary, birth of a child or grandchild, a substantial increase or decrease in wealth due to inheritance or other means, etc.), then it may be time to review your plan. Some of these changes can affect not only wills, but also powers of attorney, advance health care directives, trust agreements, insurance coverage, et cetera.

3. Is your estate plan set up to avoid probate? If you only have a will, and have more than \$100,000 in assets, then your estate will go through probate when you pass away. Probate is an expensive and time-consuming process which places your assets in the hands of the court system, rather than your heirs, to distribute.

4. Have you reviewed the title to your assets to make sure that the title is consistent with your estate plan? It is important to remember that property owned with another person as joint tenants with right of survivorship

or, for married couples, as tenants by the entirety, does not pass according to the will of the first co-owner to die, but rather automatically passes to the surviving joint owner. Therefore, retitling of joint assets may be necessary if you intend a particular asset to pass through your will, which is often essential for the success of the tax planning provisions incorporated in wills. For example, married couples whose wills contemplate the use of a “bypass” or “credit shelter” trust on the death of the first spouse should ensure that each spouse has title to sufficient assets to fund the bypass trust under his or her will in the event that spouse is the first to die. Additionally, a client who intends to have his or her estate pass primarily into a marital/QTIP trust may not accomplish his or her intended results if most assets are jointly titled with, or pass by beneficiary designation outright to, the surviving spouse.

5. Have you recently reviewed the beneficiary designations of your benefit plans? It is important to remember that IRAs, 401(k) plans, life insurance and other arrangements that employ beneficiary designations do not pass according to the provisions of your will, but rather pass by those express beneficiary designations. Therefore, it is important that beneficiary designations be reviewed and updated, along with your will and other estate planning instruments, to ensure that the funds from these arrangements will be disposed of in a manner consistent with your overall tax and non-tax estate planning objectives.

6. Are you properly administering your charitable or irrevocable life insurance trust? If you are charitably inclined, you may wish to consider the best way to achieve your charitable objectives. A number of vehicles are available to accomplish charitable planning to gain income tax and estate tax advantages, if desired, and existing charitable plans could benefit from a review in light of possible rule changes over time. If you have established an irrevocable life insurance trust to remove insurance proceeds from your estate for estate tax purposes, then a complex set of requirements must be met in order for tax estate planning objectives to be met.

Please contact us if we can be of any assistance in creating or updating your estate plan.