

Resolve Now to Review Your Estate Plan in 2015

Gina M. Barry, Esq.



It's time to make your New Year's resolutions! Most resolutions are so cumbersome, they are impossible to keep. A simple resolution

to make and keep is to review your estate plan. An annual review of your estate plan ensures that your plan remains current as there are many reasons that an update to your plan may be needed. In Massachusetts, the Uniform Probate Code has been enacted over the past few years, which, in and of itself, could be a reason to update your plan.

In order to review your estate plan, it is first necessary to have a plan in place to review. If you have not already established a basic estate plan, including a Last Will and Testament, Durable Power of Attorney, Health Care Proxy and Homestead Declaration, there is no time like the present to take action. Establishing a plan is not difficult, nor is it as expensive as you may think.

One important area to watch is the estate tax system. In 2015, you may pass up to \$1 million to your heirs without incurring any Massachusetts estate tax. In 2015, you may pass up to \$5.43 million to your heirs without incurring any federal estate tax. It appears that the Massachusetts estate tax threshold will hold steady in the coming years. The federal estate tax threshold is expected to continue to increase each year as it is indexed for inflation.

Many people mistakenly believe that they do not have a taxable estate. All of the assets that you own at the time of your death are counted toward the total value of your estate. Assets include, but are not limited to, real estate holdings, life insurance proceeds, retirement, investment and bank accounts and even your personal property. Life insurance seems to be the most commonly overlooked asset when calculating net worth for estate tax purposes - probably because the proceeds are not paid out until you die.

When property is left to a spouse who is a United States citizen, even if its value exceeds the current estate tax threshold, no estate tax will be owed as the unlimited marital deduction allows "free" passage of assets from one spouse to the other. Be wary of the trap that awaits married couples here. When the surviving spouse passes away, the assets will be in the estate of that spouse and will be fully taxed. Regardless of whether you are married or single, if your estate exceeds the current threshold, proper planning can minimize or even eliminate the estate tax.

If your estate is valued at less than the estate tax threshold, you should still review your estate plan annually to ensure that your wishes will be carried out upon your incapacity, and ultimately, upon your death. Estate plan documents often need updating. Perhaps an additional child or grandchild has been born, and there are no provisions for this new family member. Perhaps your chil-

dren have matured significantly, and a trust is no longer necessary to hold and administer their inheritance. Perhaps a child has predeceased you or has proven to be a spendthrift, in which case a trust may now be in order. Any of these issues would warrant an update.

You should also review your estate plan to be sure that your assets remain sufficient to carry out your plan. Many estate plans include bequests of specific dollar amounts with the remainder of the estate passing to those intended as the primary beneficiaries of the bulk of the estate. If your assets have decreased substantially, large specific bequests can disinherit the heirs that receive the remainder of your estate after the specific bequests are paid. Consider changing the specific dollar amounts to percentages so that fluctuations in your assets will be adjusted for automatically.

Yet another reason to review your estate plan is to make sure that the individuals you have named in key positions are still able to serve and that they are still who you would choose to make decisions for you. The nominations to review in your Will include your Personal Representative (formerly known as your Executor) and any Trustee or Guardian named therein. You should also review who you named to serve in your Durable Power of Attorney and Health Care Proxy. Also, if your Health Care Proxy does not contain Living Will language, which addresses

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your end of life medical decisions,
your Health Care Proxy should be
updated to include your wishes.

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