

Resolve to review your estate plan

Gina M. Barry, Esq.



Happy New Year! 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. Reviewing your estate plan ensures that your plan remains current and consistent with your wishes.

Plan basics

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.

Additions and adjustments

One of the reasons to review your estate plan annually is to ensure that your wishes will be carried out upon your incapacity, and ultimately, upon your death. Perhaps an additional child or grandchild has been born, and there are no provisions for this new family member. Perhaps your children have matured significantly, and a trust is no longer necessary to hold and administer their inheritance. Perhaps a child has proven to be a spendthrift, in which case a trust

may now be in order. Any of these issues would warrant an update of your estate plan.

Asset check

It is also important 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 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.

Personnel check

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.

Estate tax changes

Some of you will also want to pay close attention to the estate tax system. In 2018, you may pass up to \$1 million to your heirs without incurring any Massachusetts estate

tax. You may also pass up to \$5.6 million to your heirs without incurring any federal estate tax. It appears that the Massachusetts estate tax threshold will continue to 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.

Other important details

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.

Spousal provisions

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 if the total value exceeds the threshold. Regardless of whether you are

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married or single, if your estate exceeds the current estate tax threshold, you will want to ensure that proper planning is in place to minimize, or even possibly eliminate, estate tax.

Many times, once an estate plan has been established, complacency sets in. While some sense of security should follow establishing a plan, it is important to review your plan regularly. 'Tis the season to review your estate plan - make the resolution that is easy to keep.

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