

Planning for When You're Gone

Estate planning is one of those things for which there never seems to be any degree of urgency. After all, who expects to expire next week? However, when you (or more precisely, your estate) need it, it's already too late. Regardless of your level of wealth, everyone has an estate.

Changes in tax laws and family status are triggering events for you to review your estate plan. Given the tax code overhaul that took place in January, and the Massachusetts Uniform Probate Code enacted last year, now is a good time to go over your estate documents and ensure that they are current. I'll review a few of the basics, but also touch upon a few items that are often overlooked.

The Basics

It goes without saying – but I'll say it anyway – that every adult should have four estate planning documents: a will, a durable power of attorney (who takes charge of your finances when you're incapacitated), a health care proxy (similar, but for your medical decisions), and a living will. Although the latter is not legally recognized in Massachusetts, it is typically followed.

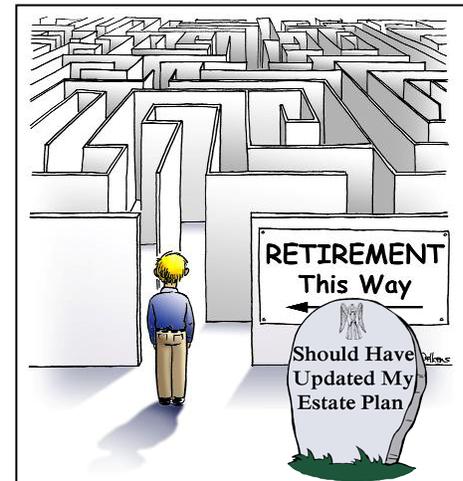
If you have these documents, make sure that they are reviewed at least every three years, or sooner if there have been changes in your family situation or to estate laws. Don't have them? While I recommend to clients that they have an attorney create them, I also suggest a short-term measure. For about \$40, you can purchase a copy of *Quicken WillMaker* and create them on your own. Not as thorough as what an attorney will do for you, but far better than not having them at all.

In Trusts We Trust

Trusts are the most confusing part of estate planning, given the profusion of types and their alphabet soup-like designations: ILITs, QPRTs, CRUTs, and so on. Trusts have three functions: protect assets, reduce taxes, and manage asset distribution. They can also remove assets from your estate, and thus out of probate. The advantages are that assets do not become part of the public record, sidestep a potential 6- to 12-month delay in accessing them, and reduce the fees associated with having an estate probated.

The more assets you have, the more likely you are to use trusts, as you have more to protect and to pass on to your legacies. However, one that most families will find useful is a "living trust." In addition to avoiding probate and potentially saving your estate legal fees, it designates a trustee who is responsible for the distribution of the assets per the terms of the trust. Don't want your kids buying Ferraris? Then consider a living trust. An important item to note: Make sure your assets are in the trust, or that the trust is the designated beneficiary. Otherwise, they will end up going through the probate process.

Navigating the Retirement Maze



Who Gets What

A common mistake is where people designate a beneficiary for their IRAs, 401(k)s and insurance policies, and then never revisit the selection. Here's a little known problem: beneficiary designations always supersede wills. So though your will states that your current spouse gets all of your possessions, if your insurance policy cites your ex-wife as the beneficiary, the latter gets those proceeds.

Another omission that creates problems post mortem is not specifying who gets the assets not included in your will or trust. Mom's silverware? Dad's classic Porsche? Address this by writing a "letter of instruction," and include it with your other estate documents. You may spare future fights and even lawsuits among your progeny.

Tax Considerations

Most individuals don't have to worry about federal estate taxes with the current \$5.25 million threshold. However, Massachusetts still has a \$1 million limit, and estates above that level will be assessed an estate tax of up to 16%. Owning a house will take you most of the way to that threshold, so consider trust options that remove some assets from your estate.

Also remember that inherited assets received a step-up in cost basis, potentially reducing future tax bills for your beneficiaries. Thus, don't waste this benefit by putting highly appreciated assets in a trust, as there is no step-up once the assets are out of your estate.

Nice Eulogies

Bad estate planning never affects you. It affects those you leave behind. Ensure that they think nice thoughts about you at your memorial service by putting together a well thought out estate plan.

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