

Why Your Estate Plan Should Be Treated Like Your House's Water Heater

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An analogy I frequently use with my clients is, “an estate plan is comparable to a water heater in your home.” First, everybody should obviously have one in their home, second it is a good idea to occasionally check on it to make sure it is in good working order and providing maximum benefit for the household. The truth is that an estate plan is a requirement for almost everyone. The only question becomes which plan is necessary given the individuals age and life situation. From a basic will and power of attorney to the most advanced trust planning, an elder law attorney can help you and your family take advantage of as many protections and/or savings which the law allows.

One of the most frequent questions I am asked by children of my elder clients is “When should we be doing our own estate plan?” My answer typically is that it is never too early nor is it ever too late. Essentially, an adult of any age should realistically have the appropriate estate plan in place. For example, any adult regardless of age should have at a minimum a basic estate plan including a General Durable Power of Attorney, Health Care Power of Attorney/Living Will and Last Will and Testament. Not having these documents in place when a tragedy strikes could ultimately lead to indecision, expensive legal fees and time consuming court proceedings for the family. Having a General Durable Power of Attorney could keep one's family from having to initiate expensive and time-consuming guardianship proceedings that ultimately place the fate of an incapacitated individual in the hands of the court. It is also incredibly important to have a Living Will, which minimizes indecision and guilt for family members should they need to make the difficult decision to continue or end life sustaining treatment. A Last Will and Testament is also incredibly important. This document helps to avoid intestacy proceedings and makes sure one's assets and/or personal items go where the Testator desires, which should be a goal for any individual. These documents are a necessity to anyone regardless of age or net worth.

An elder law attorney is also able to help clients with more advanced estate planning as well. We have already established the basic documents that should be required for every adult, but what planning may be necessary as we get older and as net worth increases? Typically, the probate process is something our clients do not desire their beneficiaries to experience due to the publicity, cost and inefficiency associated with the proceedings. For an individual who currently works, with a family, a plan utilizing a Revocable Living Trust is a great tool to help eliminate probate and ensure a smooth transition should the individual and/or spouse pass away. Furthermore, a Revocable Living Trust can be a great tool for the family to ensure that

minor or grown children do not directly inherit assets into their individual names that could then be subject to being squandered.

Retirement is also another life chapter where it is important for the client to review their estate plan to ensure they are taking advantage of all the possible protections available. At this stage in life, the priorities of the elder client begin to differ from their younger peers. Long-term care exposure, government benefits eligibility and inheritance tax concerns all become relevant reasons why a retired individual may want to make changes to their estate plan. An elder law attorney can utilize Asset Protection Trusts to maximize protection from long-term care costs, or possibly help save a family thousands in inheritance tax, or even expedite access to government benefits that have been earned by the client through military service.

Regardless of the age of the client, chances are that some type of estate planning is beneficial. It is also important to note that the estate plan that may have been appropriate for someone in their 30's or 40's may no longer be offering or prioritizing the protection that it should when the client is in their 70's or 80's. That is why one's estate plan, like a water heater, is important for an individual to periodically evaluate and make changes when necessary. It is rare for a single water heater to function for the entire life of the home's occupant without any issues; similarly, it is equally rare for an estate plan to be able to do so either.