



Elder Law: Holiday season is the best time to update your estate planning

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The holidays are upon us with Thanksgiving this week getting them started. It's also a good time to get started with some Old Year end and New Year beginning planning activities, especially if family members are going to be celebrating the holidays with you.

Start with reviewing what you have and how you own it (by yourself, with your spouse, with a child or with whomever). Do you still want to own it in this way?

We, for example, had a recent situation where a mother, married for the second time, owned a large bank account with a child from her first marriage (having three other children). The mother just knew that joint owner child would do the right thing with the money and split the proceeds of the account equally with the other siblings, which included a child of the second marriage.

Guess what; joint owner child said "the money's mine" and "tough luck" to the siblings. Not quite what mom wanted, eh!

What do you have that may be beneficiary designated (life insurance, IRAs, 401ks, etc.). Do you want the same beneficiaries on these assets? If not, plan to change them. Do you have contingent beneficiaries in the event the first beneficiary predeceases you? If not, you may find a big chunk of, for example, your IRA going to pay income taxes because of the funds going to your estate rather than being able to stretch out the distributions over the life expectancy of the beneficiary.

Who do you want to get what you have and in what manner? Do you want your daughter to get it outright and have your no-good son-in-law spend it all? Would it be better to have the assets put into a trust allowing greater control over how and in what manner the assets are used? You decide. This could even include making provision for a favorite charity.

Do you even have any estate planning documents (will, trust, power of attorney, health care directive)? How old and musty are they? Review them before the family gathering(s). Has anything and/or everything changed? Figure out what you want to change. Who is going to handle your affairs if you're unable to do so or if you're dead?

Line up these people or institutions you're trusting to handle your affairs before they're needed. And, make sure they're willing to do it. We've had more than one occasion where the selected person wasn't even aware they were selected nor were they willing to serve.

Also use this joyous time of year to make sure your family members know your wishes for health care decision making and your end-of-life choices. Serious stuff requires serious discussion. The holidays, with family present are a great time to do it. (Trust us; this can evoke great dinner time conversation).

Do the parties acting on your behalf know where your important documents are? Do they have copies of the power of attorney and health care directives? You probably won't want to give out copies of your will or trust as you may wish to be more private as to your largesse and to whom it's going, particularly if you, from time-to-time change your mind. But at least let someone know where they can find them.

Finally, and before year end, does it fit in with your plans to make gifts of some of your assets to favorite folks? If you feel you can afford it, take advantage of the \$14,000 annual exclusion amount (excluded from federal gift taxes). You can give this amount to as many or as few individuals as you wish (even including us!).

Have a plan; either you decide or someone else does.

Happy Holidays!