

When Should I Update My Estate Plan: Jen's Quick and Painless Guide

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July 2016

Once an estate plan is in place, it is common for it to get filed away and forgotten. Estate planning isn't generally at the top of the "fun annual activities list" alongside the summer beach vacation. Unless you are lucky enough to be my client, estate planning is somewhere closer to 257 on the to-do list and folks often wait decades between updates and then find themselves in precarious positions due to a lack of updated and appropriate planning.

So, when should you update your estate plan? My quick and easy answer for clients is "every 5 years or when something changes." But what are some changes that should move estate planning up on your to-do list, perhaps somewhere above cleaning out your sock drawer?

Family Changes

Maybe you had a baby or adopted a child or your seventh grandchild was born. Perhaps your children have turned 18 or gotten married. Maybe you got married, or even divorced. These are all life events that could merit a new look at your estate plan. If you have minor children you will need to make decisions about guardians in your absence. Even if your children are 18, you might want their inheritances to pass into a trust until they are more mature. What if you have remarried and you now have a blended family, or you recently lost your spouse? These are all signs that you should update your estate plan.

You Hit the Powerball (or Acquired New or More Complex Assets)

Perhaps your last estate plan was drafted in your early working years or you have recently acquired a significant asset, have property in multiple states (or even countries) or a business. Your once simple estate plan just got a lot more complicated and you stand to lose much more by failing to sufficiently plan. A plan that once involved basic documents now needs tax analysis and perhaps Trust planning. It's time to update your plan.

Changes to Your Named Fiduciaries

Often clients want or need to change the guardians, personal representatives and powers of attorney named in their estate planning documents due to a death or a change in relationship. Perhaps you did not name a successor fiduciary and now there is a lapse in your documents, or maybe you've just changed your mind. In these circumstances, it's time to update your plan.

Law Changes/New Laws

The laws surrounding estate planning are constantly changing. While your old documents may be grandfathered in for some changes to the law, you could miss out on some changes in the law that could

work to your benefit, or you could find yourself in a position where a change has made your documents far more complicated than necessary. With higher federal estate tax exemptions, it isn't uncommon to see estate plans that cause unnecessarily complicated situations for surviving spouses. The average person isn't aware when law changes pertaining to estate planning occur so consulting with an attorney is the easiest way to stay on top of changes that might impact you. Also, if you move to another state, then you absolutely need to update your estate plan to assure that it complies with the laws of your new home. Changes in the law mean it is time to revisit your plan.

Changes to Your Health or that of a Loved One

Health changes, disabilities or the need for long term care create an absolute need to examine your estate plan. By having Elder and Special Needs planning incorporated into your estate plan, you can protect your life savings and preserve assets for your disabled loved ones. A knowledgeable Elder Law Attorney can assist you not only with updating your estate plan but also with gaining access to services and benefits to assist with the costs of long term care for you and your loved ones. It is always best to revisit your plan at the earliest point possible after a diagnosis to assure you are in the best position, though there is generally much that can be done to assist you even in an emergency situation such as a sudden fall, stroke or traumatic injury. In these situations, it is a good idea to take another look at your estate plan.

Retirement

Reviewing your estate plan upon retirement is a good time to "check-in" to make sure your affairs are in order - not only from an estate planning perspective, but also to make sure you are not missing critical dates for Medicare, that you are maximizing your use of Social Security, that your investment risk level is in line with this new stage of life and that you have considered a long term care planning strategy, whether it be elder care trust planning, long term care insurance or a combination of the two. When you are approaching retirement, it is again time to revisit your estate plan.

Though the passage of time should be a sufficient reason for reviewing an estate plan, this list is a quick and easy way to diagnose when your estate plan needs a check-up and an elevated position on your to-do list. That sock drawer can wait.