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WHEN SHOULD I UPDATE MY ESTATE PLANNING DOCUMENTS

By Neil A. Derman, Esquire

Since 2001 the laws regarding estates and trusts have gone through some drastic changes. Begley & Bookbinder recommends a periodic review of your estate planning documents, every three to five years. When should you look to update your documents? After the occurrence of a significant life event, such as marriage, divorce, birth of a child, adoption, or death of a beneficiary or fiduciary. Even if you haven't experienced any of these events, there may have been changes in the tax laws or in your financial situation that necessitate a re-evaluation of your estate plan. Why is it important to update your plan? Failure to update your plan could result in less of your estate passing to your beneficiaries. Without constant review by a professional, your documents could become ineffective and fail to accomplish your initial objectives. These are issues that should be resolved prior to one's death or disability.

Marriage, remarriage, divorce, birth of a child, adoption, and the death of an administrator or executor all require one to update one's estate plan. Such events require either the adding or removal of names from your current documents.

Another change that requires updating your documents is a change in your financial situation. If you last updated your estate plan more than three years ago, your net worth may have changed significantly, requiring further estate tax planning. Also, the tax laws are constantly changing. In 2001, the estate tax exemption was amended to \$1,500,000 for 2005, \$2,000,000 in 2006 and \$3,500,000 in 2009. The tax is scheduled to be repealed in 2010, but reinstated in 2011. Begley & Bookbinder recommends that any plan created prior to the amendment of the Internal Revenue Code, should be reviewed to ensure that the estate plan complies with the changes in the law.

But most importantly, you should re-evaluate your desires from time to time. You may have changed your mind about how you have chosen to address certain issues in your estate plan. Perhaps you would prefer someone else to be a fiduciary, because they are more competent than the one you originally chose, or because the original fiduciary left the state, or because the original fiduciary has trouble handling funds.

You should be commended for having an estate plan in place. You are well ahead of the curve, but you must also remember to update your plan or you soon may find that your good work has become as effective as no plan at all. Below is a checklist of reasons why you may need to update your estate plan:

- _____ The individuals you have named are deceased.
- _____ New people should be named in your Will (example: a birth, adoption, marriage)
- _____ Divorce or marriage
- _____ New state laws (You may wish to consult with your estate planner regarding this. This may also apply if you have changed your domicile to another state.)
- _____ Changing guardians, personal representatives, or trustees
- _____ Children reach the age of 18
- _____ A substantial increase or decrease in the value of your estate
- _____ The acquisition or disposition of a significant asset
- _____ More than three to five years have passed since last you reviewed your estate plan



Begley & Bookbinder, P.C. is a law firm that specializes in Elder & Disabilities Law. We are based in Moorestown, NJ, with offices in Stone Harbor & Lawrenceville.

If you have any comments, e-mail us at ccaruso@begleylawyer.com

Our web site contains a library of firm newsletters, articles, on-line forms for Medicaid, Estate Planning and Guardianship, as well as our upcoming speaking engagements, our products, and other relevant information.

If you are interested in having an Elder & Disabilities Law Attorney from Begley & Bookbinder speak at an event, please contact Colleen Caruso at (856) 787-4237.

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