THE IMPORTANCE OF KEEPING YOUR ESTATE PLAN UP TO DATE

Your estate plan is not something you can ever "finish." Your circumstances may change in the future, as well as tax laws or other laws that may affect your estate plan, and often these changes can come with both opportunities and pitfalls. It is best if your estate plan is reviewed regularly and updated to maintain your goals and address any changes in the law. Here are some circumstances in which you should consider a review and update of your estate plan:

1. **Tax law changes** – for example, the recently enacted SECURE Act drastically changed the way retirement accounts are paid out upon the account owner's death. With some exceptions, most payouts are required to occur within ten years of the account owner's death. Such changes often require a reconsideration of various elements of the estate plan.

2. **Other law changes** – another law that changed in the last few years was the Spousal Elective Share Law. This law provides that a person may make an election against his or her spouse's estate whether they are named as a beneficiary in the estate plan or not named at all. Its main goal is to avoid a spouse being disinherited without the spouse's knowledge. There are many facets to this issue that may require an update to your plan, especially if you have a blended family.

3. **Growth in the value of your taxable estate** – the state and federal estate tax exemption amounts are significantly higher than they have been in the past. Unfortunately, these amounts are always subject to change. As your wealth grows, the value of your taxable estate will grow, and you may be affected by estate tax laws. You may be due for a review in this situation as we can include some tax planning provisions in your documents to provide flexibility and account for these fluctuations.

4. **Children become adults** – this may require a few changes. One change you may want to consider as your children get older is that you might want them named in the roles of Trustee, Personal Representative, Power of Attorney Agent, etc., as they become more responsible. Another change may be how your children receive their inheritances. When your children were minors, you may have included trusts for their benefit to receive the inheritances until they reached a certain age. However, as they become more financially responsible, you may want to consider leaving their inheritances to them outright or even in a lifetime trust for some divorce and asset protection.

5. **New family members or loss of family members** – with a change in family members, you may want to update your documents to change your named beneficiaries. As an example, if your children get older and have children of their own, you may want to add a provision with a distribution to your grandchildren.

6. **It's been a while; or your goals have changed** – clients may put an estate plan in place that they are comfortable with, but after some time passes, they remember it differently or their goals have changed and the estate plan is no longer in line with how they want their estate to be administered. With that, a change will be warranted.

There are possible consequences if you do not update your estate planning documents, such as unintentional tax consequences, beneficiaries not being included, or even someone being named in a role who you believe should no longer serve in that capacity. Your estate plan should say what you want it to say now – not back when you put it in place.

To make sure your estate plan is up to date with your wishes while naming the appropriate fiduciaries and beneficiaries, you should review your estate plan every 3-5 years unless there is a circumstance change that requires a sooner review. If you are interested in a review with one of our attorneys so we can advise on any recommended updates to your current estate plan, please give our office a call to schedule a meeting.

THE LAW OFFICE OF
JAMES A. HYATT

© 2022 The Law Office of James A. Hyatt
13220 Executive Park Terrace, Germantown, MD 20874
(301) 540-3300
www.estateplanningmatters.com