PRIME

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Your estate plan: January's a great time for an annual review

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Happy New Year! It's time to make your New Year's resolutions. Reviewing your estate plan is a simple resolution to keep that ensures your estate plan remains current and consistent with your wishes.

You do have a plan, right?

In order to review your estate plan, it is first necessary to have a plan in place. If you have not already established a basic estate plan, including a Last Will and Testament, Durable Power of Attorney, Health Care Proxy, and Declaration of Homestead, there is no time like the present to establish your plan. Establishing a plan is not difficult, nor is it as expensive as you may think.

And it's up to date?

One of the reasons to review your estate plan annually is to ensure that your wishes will be carried out upon your incapacity, and ultimately, upon your death. Perhaps an additional child or grandchild has been born, and there are no provisions for this new family member. Perhaps your children have matured significantly, and a trust is no longer necessary to administer their inheritance. Perhaps a child has proven to be a spendthrift, in which case a trust may now be necessary. Any of these changes would warrant an update of your plan.

It's sufficiently funded...

You will also want to be sure that your assets remain sufficient to carry out your plan. Many estate plans include bequests of specific dollar amounts with the remainder of the estate passing to those intended as the primary beneficiaries. If your assets have decreased substantially, large specific bequests can disinherit the beneficiaries that receive the remainder of your estate after the specific bequests are paid. Consider changing the specific dollar amounts to percentages so that fluctuations in your assets will be adjusted for automatically.

Everyone will still serve

Yet another reason to review your estate plan is to make sure that the individuals you have named in key positions are still able to serve and that they are still who you would choose to make decisions for you. The nominations to review in your Will include your Personal Representative (formerly known as your Executor) and any Trustee or Guardian named therein. You should also review who you named to serve in your Durable Power of Attorney and Health Care Proxy, as they would make your financial and medical decisions, respectively, if you were to lose the ability to make your own decisions.

You know the estate tax rules

Some of you will also want to pay close attention to the estate tax system. In 2020, you may pass up to $1 million to your heirs without incurring any Massachusetts estate tax. You may also pass up to $11.58 million to your heirs without incurring any federal estate tax. Thus, your estate could owe Massachusetts estate tax without owing any federal estate tax. It appears that the Massachusetts estate tax threshold of $1 million will continue to hold steady; however, there have been some recent discussions about increasing the threshold. The federal estate tax threshold is expected to continue to increase each year as it is indexed for inflation, until January 1, 2026 when, unless future legislation is enacted, a prior exemption of $5.6 million indexed for inflation will be restored.

And what's a taxable estate

Many people mistakenly believe that they do not have a taxable estate. All of the assets that you own at the time of your death are counted toward the total value of your estate. Assets include, but are not limited to, real estate holdings, life insurance proceeds, retirement, investment and bank accounts, and even your personal property. Life insurance seems to be the most commonly overlooked asset when calculating net worth for estate tax purposes - probably

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because the proceeds are not paid out until you die.

You understand the spouse penalty

When property is left to a spouse who is a United States citizen, even if its value exceeds the current estate tax threshold, no estate tax will be owed as the unlimited marital deduction allows "free" passage of assets from one spouse to the other. Be wary of the trap that awaits married couples here. When the surviving spouse passes away, the assets will be in the estate of that spouse and will be fully taxed if the total value exceeds the threshold. Regardless of whether you are married or single, if your estate exceeds the current estate tax threshold, you will want to ensure that proper planning is in place to minimize, or possibly eliminate, estate tax.

Many times, once an estate plan has been established, complacency sets in. While some sense of security should follow establishing a plan, it is important to review your plan regularly. 'Tis the season to review your estate plan, so make the resolution that is easy to keep.

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