

## Consider updating last will and testament as year comes to close

It's that time again. We're closing out another year and we should all consider whether we need to focus on our estate plans. For some, this may mean making a plan where there isn't one, and for others it will mean reviewing and possibly changing a plan that is out of date. Estate planning attorneys will agree, it's better to die with a properly drafted Will than to die without one. If you don't have a Will, consider getting one. You will want to direct your assets to those persons whom you wish to receive a legacy as opposed to relying on the alternative, which is a default plan arranged for you by the State of Texas. You will also want to name an independent executor along with successors in the event the first executor fails, refuses, or becomes unable to serve. You may also want to include special trusts to provide for family members who are disabled as well as trusts for minors and perhaps adult children.

If you already have a Will, it may be time to pull it out and dust it off. The Will you made 30 years ago, or just five years ago, may need some changes. Circumstances change over the years. People pass away, new babies arrive, divorces occur and finances change. Also from time to time there are changes in the laws affecting probate matters and estate taxes. While any one of these events may not indicate that changes are needed, the potential significance of each one may cause you to consider an update.

There are two big considerations you may not have thought of before that may require changes to your estate plan or motivate you to get one. The first consideration is the Federal estate tax exemption amount. Years ago, the exemption amount, which allows a person to leave a certain amount of money to beneficiaries tax-free was much smaller. The law required a person to either "use it or lose it." For example, in 1987, when the exemption amount was \$600,000 per taxpayer, a couple was forced to use a bypass trust in order to take advantage of the deceased spouse's unused exemption amount. The exemption is now \$5,430,000 per taxpayer and is set to rise to \$5,450,000 on January 1, 2016. Additionally, the law has changed regarding the "use it or lose it" requirement, with the advent of portability. While there may still be relevant reasons to use a forced bypass trust in a person's Will, in some cases, it may be time to eliminate it.

The second planning consideration will be to consider implementing planning options in order to exercise some control over your assets after you pass away. You may think you don't care what happens to your assets, but consider the following scenario. George and Martha have three children. George dies leaving his assets to Martha, then Martha dies leaving all of her assets to the three children. This is a common plan. One of the children, Susan, dies about 90 days after her mother. Susan's Will leaves all of her assets to her husband, Frank. Frank marries his new bride a couple of months later. The new bride is now spending Frank's money and depending on the circumstances, may burn up all of the assets, leaving nothing for Susan and Frank's children. George and Martha would be shocked if they knew their assets were now being used by a stranger instead of going to their own grandchildren.

If George and Martha had planned properly, they would have considered the use of children's and descendants' trusts. This would have allowed the children to receive their inheritances in trusts and whatever was left at the child's death would then have gone to descendants' trusts and eliminated the assets from being distributed outright to the son-in-law, Frank, and then to his new wife.

With these considerations in mind, it's time to establish your estate plan, or review, and perhaps change, your current estate plan.

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