

# When to Consider a Change in your Estate Planning Documents

Articles May 26, 2022

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As estate planning attorneys, we not only discuss with clients the importance of having estate planning documents in place, but also the importance of updating documents when life changes. As a rule of thumb, estate planning documents should be reviewed about every five years to determine if revisions are necessary. When life changes have occurred since the documents were revisited, changes may become necessary. Some of these life changes that may prompt the need for updating your documents include the following:

- 1) **Marriage.** If estate planning documents have been drafted prior to marriage, they should be updated to include provisions for the new spouse. These changes could include adding your new spouse as Executor under your Will, updating your Power of Attorney documents to name your spouse as primary Agent, or generally ensuring that your spouse is provided for and will receive assets under your Will.
- 2) **Children.** Changes to estate planning documents related to children applies to many circumstances. First, estate planning documents should be updated when children are born, with specific attention to planning for minor children. This can include adding testamentary trust language, along with choosing guardians for minor children. Additionally, estate planning may need to be updated when children reach a certain age, or when they legally become adults.
- 3) **Moving.** Planning does not always require updating when a move occurs; however, moving out of state or out of the country is a life change that should be mentioned to your estate planning attorney. If moving out of state or out of the country, you want to ensure that your estate planning documents are updated in order to be recognized and valid in your new place of residence. Additionally, if your Will includes a specific bequest of property and that property has since been sold or transferred, the Will should be revised to reflect this change.
- 4) **Job or career change.** Often with a job or career change, estate planning documents may not require revisions, but beneficiary designations related to retirement accounts and life insurance policies should be reviewed. If the goal is to have these beneficiary designations consistent with the provisions in the Will, these should be reviewed and updated on a regular basis, but especially when changing jobs or employers.
- 5) **Divorce.** Following divorce, a couple should update their individual estate planning documents that may previously have included mostly spousal provisions. Additionally, a Financial Power of Attorney naming a former spouse as primary agent may need updating, along with a Healthcare Proxy document.
- 6) **Death or health concern for family member.** When a family member passes away and that person was named in estate planning documents, whether as an heir, as the Executor in a Will, or as the Agent under a Power of Attorney document, these documents should be reviewed to ensure that a successor or contingency was planned for appropriately. Additionally, if a family member is named as either Executor or Agent in estate planning documents, and that family member now has health concerns and may be unable to serve in that role, the underlying document should be reviewed to determine if an update is necessary.
- 7) **Long-term care concerns.** When planning with long-term care concerns on the horizon, some of the planning techniques utilized previously may be altered in some ways. Often the long-term care discussion centers around asset

protection and ensuring that assets will be preserved for future generations. Powers of Attorney may require updating as well to guarantee their use and application in the context of long-term care planning.

Estate planning is very rarely “one-size fits all.” While these benchmarks are some important times to address (or readdress) your planning needs, many other scenarios arise when it is worthwhile to have a planning discussion. In general, we inform our clients to contact us if they are unsure of the need for changes to their estate plan so that we can evaluate their plan and make suggestions based on their current scenario.

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