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SELECTED CIRCUMSTANCES TO REVIEW YOUR ESTATE PLAN.

You have a Last Will & Testament/Trust you signed five years ago sitting in a safety deposit box at your bank, so you're all set, correct? This is a fairly common misconception about Wills/Trusts (actually, an estate plan consists of many documents).

Estate Plans, like life, are not static. There is no doubt that your circumstances change in the course of time and will continue to do so for your lifetime. This is probably a good thing, otherwise how boring would life be?

This brings up the need to spend some time evaluating what has changed in your life since the time you established your estate plan or last updated it. What has changed? Given the changes, should you be considering amending and/or updating your estate plan to match up with your new reality?

Here is the point: if any of the following events occur, perhaps you should review the potential effect(s) on your estate plan to determine whether you desire any changes (if I am assisting, I may tell you there are required changes). The list below is not intended to be all inclusive, which may be obvious considering such a list would be significantly longer, don't you agree?

1. If you do not have reasonably current versions of Living Wills (documents which express your feelings about not being kept alive artificially in the event of catastrophic illness), Health Care Powers of Attorney (documents relating to your medical treatment in the event of your incapacity) and Durable Powers of Attorney (which can be very important documents governing the administration of your assets in the event of your incapacity and, if appropriate, authorizing your agent to make gifts to intended donees during your incapacity for asset protection or other purposes), you should consider a review and an update of those documents;
2. If you are concerned about the possibility of catastrophic expenses (nursing home care, etc.) and are interested in learning whether you might be able to protect some of your current assets, you should review your overall circumstances (actually, you should have an asset protection strategy in place today);
3. Birth or adoption of a child (whether yours or a beneficiary's) (Depending on the provisions of a Will/Trust, birth or adoption of a child may also result in unintentional consequence);
4. Illness, disability, or death of a beneficiary;
5. Concern about any beneficiary's financial responsibility (seeing more of this in the course of time);
6. Illness, disability or death of named Executor, Trustee, or Guardian;
7. Change in attitude toward a named Executor, Trustee, or Guardian;
8. Change in economic condition, including an increase or a decrease in asset holdings or values;

9. If you have made lifetime gifts to some, but not all, of a class of beneficiaries whom you would expect to treat equally, you may need to address that fact in your estate plan (including the possibility of establishing equalizing gifts in your estate planning documents to avoid unintended consequences);

10. Marriage, separation or divorce of you or any beneficiary (or if your child's marriage is in jeopardy, you may want to take appropriate actions);

11. Change in the form or ownership of asset holdings (for example, joint tenancy with a right of survivorship vs. sole ownership; change in the actual owner of the asset; etc.);

12. Acquisition of real estate in another state;

13. If you have a Revocable Trust (sometimes called a "Living Trust") as part of your plan, a change in your desires regarding your final disposition and nomination of Trustees;

14. If you do not have a Revocable Trust as part of your plan, you may wish to consider whether establishing a Revocable Trust could improve your plan;

15. Change in business interests (for example, acquisition of a new business; acquisition of a partnership or other ownership interest in an existing business);

16. If you own an interest in a business and do not have a current succession plan in place, you should review your options;

17. Retirement from a business or profession;

18. Changes in ownership of life insurance, life insurance beneficiary designations or insurability;

19. Changes regarding retirement plans, including beneficiary designations; integration of the benefits with your overall planning goals. You should be aware that in recent years retirement benefits have assumed an increasingly important place in estate planning. If you have significant retirement benefits, you should review your plan to be sure that you are taking advantage of all applicable opportunities for continued deferral of the benefits, and to be sure that the benefit provisions are properly integrated within the scope of your overall estate planning goals; and

20. Change in your state of residence (for example, if you become a resident of Florida, and if you have a Revocable Trust, there may be compelling reasons to fund your Revocable Trust during your lifetime). If you do not have a Revocable Trust, you may wish to establish one.

QUESTIONS: If you have questions about the contents of this article (or any other questions really), or if you would like to review any aspect of your current estate planning arrangements, you should definitely contact someone who practices Elder Law.

The information provided in this article does not constitute legal advice.

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