

Save on Taxes By Updating Estate Plan

Wills, Trusts, Proxies Revisions help divvy up your assets right, keep heirs from squabbling

BY PAUL KATZEFF INVESTOR'S BUSINESS DAILY

Things change.

In fact, typically there are three changes that can make it necessary for you to revise your estate plan, says Gary Hager, president of Integrated Wealth Management in Edison, N.J.

Tax law.

Your health.

You change your mind.

Failure to act can foist taxes and expenses on your estate after you've died. And even if you don't care, your loved ones likely will.

Failure to update your plan can also thwart your wishes. Instead of your desires being carried out, your assets may get divvied up differently by a probate court judge.

"The outcome may be very different from what you have in mind," said Mark Kaizerman of Kaizerman & Associates, a Natick, Mass., financial planning firm. There's a wide range of documents that can need updating, including: **Beneficiary designations**. You name beneficiaries for everything from IRAs to company plans like 401(k)s, insurance policies and wills.

But over time your family may have births, deaths and divorces. "Make sure documents still name the right people as primary beneficiaries," Kaizerman said. "Also, don't forget to name secondary beneficiaries so there's no void in case the primary dies."

If no one is named beneficiary – or if the sole beneficiary dies – a judge may have to decide how assets are distributed. And lack of a living beneficiary can change how assets are handled, resulting in higher taxes.

Wills and trusts. Those documents need updating, so they work together smoothly. They also must work in harmony with current law.

One of their most important tasks is to avoid or minimize the tax bite from assets that go to your spouse and other loved ones.

One way they do that is by using the estate-tax exclusion. That's the amount of your estate that is exempt from federal estate tax.

This year the exclusion is \$1.5 million. It rises to \$3.5 million in 2009. The top tax rate will be 45%.

In 2010 the federal estate tax will be repealed. But it returns in 2011 at 2001 levels. That means the exemption will drop to \$1 million. The tax levy will be as high as 60%.

If a will is old, it may discuss inheritances in terms of exemption amounts that prevailed years ago.

A will should be updated so it describes inheritances in terms of the maximum amount allowable under the law at the time of your death.

"It should use that language rather than specifying a dollar amount," Hager said.

That's also important because your estate may be worth far more at your death than when you first write your will.

Property appraisals. People often don't appraise valuables like property, art and jewelry, Kaizerman says. And they often don't let loved ones know where to find the documents. "Tell your beneficiaries where you keep the paperwork – which desk drawer or bank safety box they are in," he said.

That can help heirs divide valuables equitably and avoid squabbles. And it may simplify tax preparation for your estate.

"It's also helpful while you're alive," Kaizerman said. "if something rises a lot in value, you may need to get a rider in your insurance that specifies its identity and value."

Power of attorney. This document names a person who can use certain accounts you own.

A power of attorney can govern such things as investment decisions, property transactions, withdrawing or depositing money to a bank account or signing checks.

You may need to revise the document every five or six years, Hager says. That can bring it into line with new laws or court decisions.

You should re-sign and re-date the document every two or three years. If it needs big or small changes, make them.

"Making the document more up-to-date makes it less likely that a bank or some other institution will balk at letting someone exercise power of attorney," Hager said.

Health care proxy and living will. Also known in some states as a medical proxy or a durable power of attorney for medical purposes, they give someone power to make medical decisions on your behalf if you're unable to.

Life or Death

The health care proxy is typically used with a living will. That document explains medical treatment you want or don't want in certain situations.

A living will kicks in if you become ill and unconscious. Suppose you develop an incurable and increasingly painful ailment. The only question is when, not if, you'll die.

If at some point you stop breathing, your living will tells doctors whether you want to be revived.

"If you don't update your proxy, a hospital may reject it," Hager said. "That could happen if you first wrote it before new treatment options for your illness came into existence. A hospital is more likely to reject it, especially if there's a cure now that didn't exist back then."

Documents like regular powers of attorney, medical proxies and living wills can cost less than \$100 to prepare, Hager says.