

New estate plan for a new year

The beginning of a new year is a natural time to reassess your goals for the future—especially from a financial perspective. A key aspect of this strategy is taking another look at your will and estate plan.

Time and circumstances may change drastically what you own, to whom you wish to make bequests and how you wish to make them. By making sure that your will—along with other documents that will pass your property (life insurance, trusts, retirement plans, etc.) on to others after you’re gone—continues to be financially practical as well as legally sound, you’ll safeguard your beneficiaries and add to your own peace of mind.

Here are three examples that we’ve seen ourselves, or heard about, that demonstrate the harm that may be inflicted by the failure to revise a will or estate plan.

Case 1: Love may not be enough

Mr. and Mrs. A have made provisions in their wills for all their grandchildren, or so they think. One of their grandchildren, J, isn’t *legally* their grandchild. He’s their step-grandchild—their daughter-in-law’s child from her previous marriage. Mr. and Mrs. A have developed a wonderful relationship with their new daughter-in-law and J, and think of him no differently from their other grandchildren. But the way that their current wills read, if Mr. and Mrs. A’s son should predecease them, his share of their estate would go exclusively to their “real” grandchildren, leaving J with nothing. However, the situation can be remedied simply enough, with an adjustment to the language in the wills of Mr. and Mrs. A.

Case 2: Equal may not remain equal

Mr. B, who never married, created a will and estate plan that he hoped would avoid family acrimony. Each of a host of relatives would receive inheritances of equal value. Among his legacies was a bequest of publicly traded stock to a nephew, K, and shares in a family business of approximately equal value to a niece, L. Since he last reviewed his plan, the stock was sold, and the business grew substantially in value. The result should he die before revisiting the plan: K will receive nothing (unless there was a provision in his will that substituted a cash bequest in the event of the sale of the stock), and L will be the beneficiary of a disproportionately large inheritance.

Case 3: Uncle Sam's tax treat can be a trick

C's current marriage is her second, and she has children from her prior marriage. Her estate plan provides for both her current spouse and her children. A trust was set up naming her children as its beneficiaries. That trust would be funded with an amount equal to the federal estate tax exemption, which, therefore, would shield the trust's assets from taxation. The balance of her assets, she thought, would serve as an appropriate bequest for her husband. But today's larger exemption amount may result in all of her assets passing to the trust and none to her spouse. In other words, without a review of her estate plan in light of the new law, C may well be disinheriting her spouse.

Triggers for estate plan review: a golden dozen

These scenarios are just a few of the many examples of what can go wrong with an estate plan drafted with the best intentions. What other situations should prompt you to take another look at your will and estate plan? Here's a short list:

Family circumstances

- Marriage or divorce
- Birth or adoption of a child or grandchild
- Marriage or divorce of a child or grandchild
- Death of a spouse or beneficiary
- A child or grandchild reaching majority
- Change in residence from one state to another

Financial circumstances

- Acquisition of property in another state
- Sale of a business or other major asset
- Change in financial status (sudden wealth or reversal)
- Change in the financial status of a beneficiary
- Retirement
- Changes in the tax laws

Act now

Failure to keep your will and estate plan up to date may not only frustrate your plans, but also could complicate and delay the distribution of your assets as well. Therefore, if you haven't reviewed your plans in the last few years, the new year—in fact, any time of the year at all—is a good time to make an appointment with your attorney and other financial advisors.

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Any developments occurring after January 15, 2007, are not reflected in this article.