



The Importance of Keeping Your Estate Plan Updated

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You did a great job! You finally made your appointment to see an experienced estate planning attorney. You did all the necessary planning. You even properly funded your living trust.

Your plan might still not work!

Why? Your estate plan was completed five years ago. Since then, a new grandchild was born, you have divorced and remarried, you reconciled with your son, whom you had disinherited, your healthcare surrogate has passed away, and you sold the building you had left to your favorite charity. You have placed the proceeds from the building

sale in a new bank account you opened in your name, forgetting to title the new account in the name of your living trust. The law also changed. Now your estate plan no longer works as you and your attorney had planned.

Now the people you want in your plan as beneficiaries — your grandchild, your new spouse, and your son are not named beneficiaries, and your ex-spouse is named as a beneficiary. Your charity may not get anything. Your new bank account will go through probate. You also need to name a new healthcare surrogate to make your medical decisions for you if you are mentally incapacitated. Finally, your entire plan may not work properly depending on the law change and its applicability to your situation.

Nothing stays the same.

Circumstances change. You will experience changes in your family situation. There will be births, deaths, disabilities, illnesses, marriages, divorces, and re-marriages.

You may experience changes in your estate. Your business may take off or go bankrupt. You may win a large sum of money from a lawsuit or you may lose it all from a lawsuit. Fluctuations in the stock market or real estate market may make a major difference in the size of your estate.

Laws will change that affect your estate planning. In 2003, the Health Insurance Portability and Accountability Act (HIPAA) laws, dealing with the privacy of medical records, became effective. These laws had a major impact on everyone's

estate plan. In Florida, a completely new set of laws affecting living trusts was adopted in 2007, making changes to living trusts a necessity for most people. The much-discussed federal estate tax laws may change, which would impact many estate plans. Because change is inevitable, part of your estate plan should be a plan or procedure for updating it.

Unfortunately, many people think of estate planning as a one-time event and not as the ongoing lifetime process it is. Remember that the only estate plan that matters is the plan in place at the time it is needed. Keeping your estate plan updated is dependent upon you and your estate planning attorney having a plan in place to maintain a continuing relationship. Your attorney does not have a crystal ball to track the events in your life to know when you need an update based on personal and financial circumstances. Conversely, unless you keep up with estate planning laws and issues on a regular basis, you will not know when it may be time to amend your estate plan. The solution is to have a continuing relationship with your estate planning attorney where the communication channels remain open and there is an updating plan in place.

Many of the top estate planning attorneys today have updating programs, sometimes called maintenance programs, in place. Typically, the client may pay a reasonable annual fee to the law firm for the updating program. The plan may include benefits such as annual reviews, no charge for changes to your estate planning documents, notices of applicable law changes, educational workshops, and other legal services at reduced fees.

If you do not have an updating plan for your estate plan, I highly recommend you discuss this with your attorney immediately. If you are looking for an estate planning attorney, ask him or her about their updating system. Remember, you could follow the advice of the many top attorney-authors in this book and do everything else correctly, but in order to have an estate plan that will work the way you want when you need it, make sure you have a plan for updating your plan.

Barry D. Siegel, P.A. provides comprehensive estate and asset protection planning services. The firm maintains systems for updating and maintaining client plans, assuring the plans work properly when they are needed.