

Maintaining Your Legacy: The Importance of Regularly Reviewing Your Estate Plan



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One of the most common questions raised by clients is: how often should I update my Will? The answer to this question must be examined on a case-by-case basis and is heavily dependent on each client's ever-changing present and future circumstances.

It is generally recommended that you update your Will every three to five years. Even if you do not believe any changes need to be made, it is wise to review your documents to ensure your affairs are in order. Regardless of time, you should also consider updating your Will upon the occurrence of significant life events. For example:

Changes in Marital Status

A wedding, divorce, or death of a spouse are all reasons to review your estate plan and update necessary appointments and beneficiary designations. If newly married, you may want to update any estate documents to include your new spouse as an executor and beneficiary of your estate. Although in New York your new spouse would inherit if you failed to update your Will, they may only be entitled to a portion of your estate. Notably, if you

are newly married and your spouse has children of their own, stepchildren will need to be included in your Will if desired. Stepchildren will not automatically inherit a share of your estate unless specifically designated or formally adopted. If divorced, removing your ex-spouse from your Will is necessary to ensure he or she does not obtain entitlement to your estate even though you are no longer married.

It is also essential to update your Will in the event your spouse predeceases you, as you may have appointed your spouse as a fiduciary. If a fiduciary cannot act and you do not have a back-up fiduciary appointed, the administration of your estate becomes more complicated as your next-of-kin will need to seek appointment. This could result in the appointment of a child or other family member that you may not want to manage your affairs.

Having Children and Child Development

When having children, it is not only essential to have an estate plan in place, but to also ensure it is updated as your children grow. For younger children, creating a Will enables you to appoint a guardian of minor children in the event they have not reached the age of majority before your passing. These designations will need to be updated as your relationships change and your children age. As for financial security, updating your Will allows you to efficiently provide for your children after your passing. This can be done in many ways and may change throughout their development. For example, if your teenage child has a disability, your Will can detail the way in which their inheritance will be provided, whether that is upon certain conditions of development or upon reaching a certain age.

Financial Growth and Financial Setback

Financial growth can be gradual, or you may find yourself in a situation of financial windfall. This may shift you into a higher tax bracket, exposing you to both state and federal estate tax consideration. As your wealth grows you may want to reconsider your beneficiaries or the way in which you devise your estate. With a higher gross estate, additional planning beyond just a Will through the creation of a living trust may be necessary to protect your assets from estate tax and allow your family to avoid the expense and delay of probate.

There are also instances when your personal wealth may decrease due to changing career circumstances, bad investments, or simply overspending. As a result, a previously created Will may not be suitable for your new financial circumstances. For example, if your Will bequeaths a certain sum to a charitable organization and the remainder to your children, the bequest to the charity may substantially limit what will subsequently pass to your children. Examining your financial circumstances is a daily occurrence, and your estate plan must align with your situation.

Changes in the Law

State and federal estate tax laws are always changing and can require a review of your estate plan. Relative to the financial growth information described above, there are existing state and federal estate tax cliffs that can subject your assets to estate tax following your passing, diminishing the inheritance to your family.

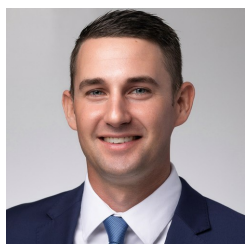
Further events prompting an estate plan review include: the deterioration of your health, moving to another state, selling your home or other property, or starting a new business venture. The above list is not exhaustive and is intended to alert individuals to the importance of updating and reviewing Wills and estate plans.

In most cases, updating a Will is as simple as preparing a codicil, or amendment, to your current Will to ensure the document is up to date depending on your circumstances. To eliminate any confusion or overlap, you can also have

an entirely new Will prepared. There is no update limit to your estate plan and ensuring periodic changes are made will only help ensure your wishes are carried out after your passing.

If you or someone you know has questions pertaining to the creation of or adjustments to an estate plan, please contact one of our [Trust and Estates Practice](#) team members at Lippes Mathias LLP for more information.

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