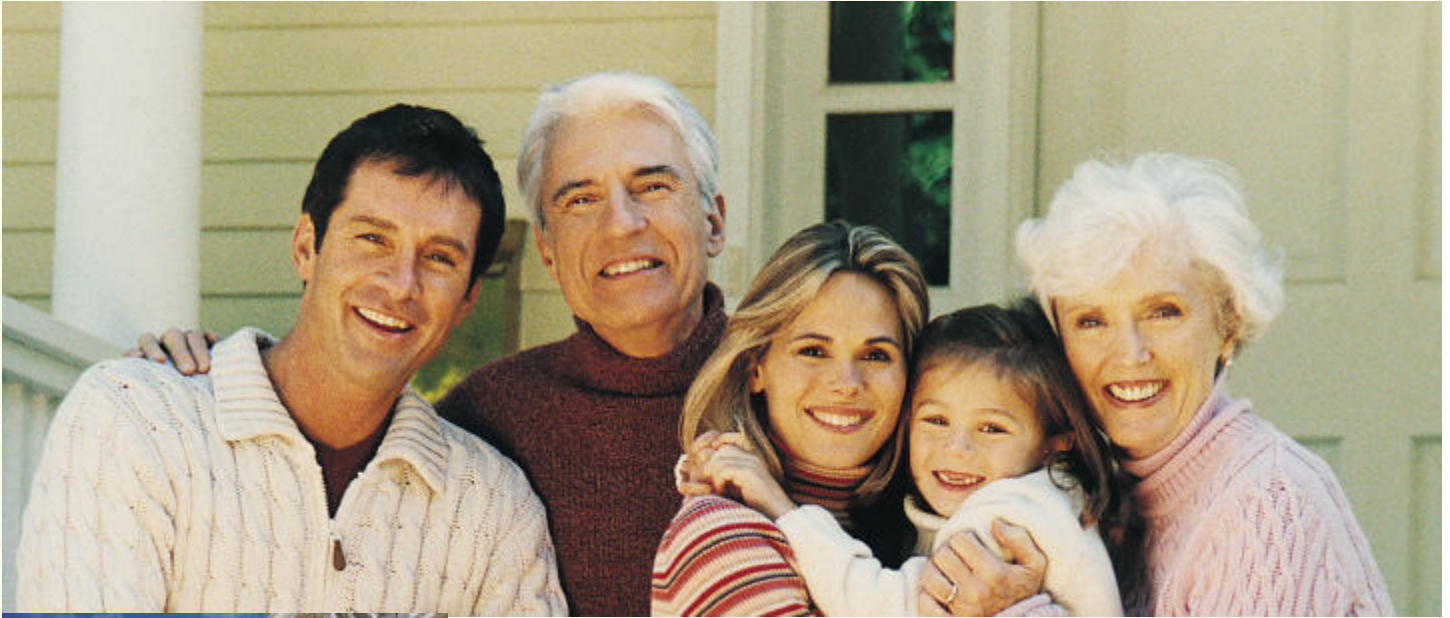


ESTATE PLANNING NEWS



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New Year's Resolutions: Is it Time to Update Your Estate Plan?

A new year is upon us. For those with annual resolutions, it's time to improve your health and spend more quality time with your family. But if all else fails, and you lose your health or your loved ones, do you have the peace of mind of knowing that you put your final instructions and wishes in writing? And is your estate plan current in terms of your family situation, financial situation, and the ever changing body of law?

How do you know that it's time to review your estate plan? If you have a large estate, you probably review your estate plan annually to stay on top of the tax laws and get the best results. Those with smaller estates (below the applicable exclusion amount of \$1.5 million this year) may not be as greatly affected by changes in the economy and tax laws. A review every five years should be adequate.

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Estate Planning News

Announcements

Ms. Davidson was elected President of the Contra Costa County Bar Association's Solo & Small Firm Practice Section for 2005.



Tip of the Month

Attention Homeowners with Living Trusts:

When was the last time you looked at your homeowner's insurance policy? Now that your trust owns your home, does your policy include the trust's name as an insured? If not, contact your homeowner's insurance representative and request that they add your trust to your policy.

Don't forget to get the updated declarations page!

Entertainment

Raising Helen (2004)

Starring Kate Hudson as a young modeling-agency assistant who has to choose between a promotion and the family she inherits when she becomes guardian under her sister's will. A comedy that considers who should be named as guardian, and how to explain difficult decisions to family members.



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He who breaks a resolution is a weakling;
He who makes one is a fool.

-- F.M. KNOWLES
A Cheerful Year Book

New Year's Resolutions

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When Your Life Changes, You Should Review Your Estate Plan

As we all know, life changes may not be so predictable. With that in mind, here are some events that should alert you to revisit your estate plan:

- (1) Someone joined your family (i.e., birth, adoption, marriage)
- (2) Someone left your family (i.e., divorce, death)
- (3) A family member has special circumstances (e.g., special needs, disability)
- (4) You moved (especially if you moved to a different state)
- (5) You have a new profession or business (or business relationships)
- (6) You acquired substantial assets (it may be time for estate tax planning)
- (7) You disposed of substantial assets (how are your beneficiaries impacted?)
- (8) You borrowed or lent considerable amounts of money
- (9) You changed insurance coverage (is it coordinated with your estate plan?)

Keeping Abreast of Changes in the Law

Most people are well aware of the increased need and corresponding efforts to promote privacy. One such effort is the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. § 1320d) ("HIPAA"). The state corollary is the California Confidentiality of Medical Information Act (Civil Code § 56 *et seq.*) (CMIA). Because these measures preserve the privacy of your health information, they make it more challenging for your designated agent to access your health information. If your Advance Health Care Directive does not include a HIPAA and CMIA protected health information release, you should prepare a separate letter authorizing the disclosure and release of protected information to your agent.

These privacy regulations have an even more chilling effect on disclosure of health information to domestic partners. Domestic partners also have the challenge of planning around their new rights and responsibilities under the California Domestic Partner Rights and Responsibilities Act of 2003 ("AB 205").

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New Year's Resolutions

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Effective January 1, 2005, AB 205 provides that registered domestic partners are treated like spouses during their partnership, at termination, and at death. Although AB 205 offers new benefits, there are many unresolved issues in the areas of estate planning, tax law, family law, and employment law.

Death and Taxes Are Certain, Have You Planned Accordingly?

Returning then to the tax issues - and don't forget to add your life insurance policies before you ignore this section! You may have breathed a deep sigh of relief when you heard that the applicable exclusion amount was increasing and eventually repealed.

There isn't much change in the federal estate tax from last year. The applicable exclusion amount is still \$1.5 million, though the highest tax rate drops from 48% to 47%. California's "pick up" tax is eliminated this year, but don't expect these tax breaks to be around when you leave this world.

Even if you think you have the estate tax issue under control, you might not have the optimal balance between estate tax reduction and wealth transfer. If you are married and taking advantage of a bypass trust, how much of your wealth is going into the bypass trust? As the applicable exclusion amount increases, you may be funneling too much of your wealth into the bypass trust, and not leaving enough to your spouse. On the flip side, if you underfund the bypass trust, and your spouse doesn't need

a large inheritance, you may end up with an otherwise avoidable estate tax liability.

Or perhaps you're single and leaving everything over your applicable exclusion amount to charity. It's better than cutting another check to Uncle Sam, right? As the applicable exclusion amount increases, you might be able to leave a larger inheritance to your friends and relatives and still avoid an estate tax bill.

Then again, maybe you were married, had a child, split up, and remarried. You want to give your child the house she was raised in. However, when you made your estate plan, you were told that doing so would trigger a substantial estate tax hit that would require the house to be sold. So you left the house to your spouse instead. But now the applicable exclusion amount has increased, and you may be able to leave the house to your child after all. Just keep in mind that your child could kick her step-mother out of the house!

Summary

None of us has a crystal ball. We can't think of all the conditions that should prompt us to review and revise our estate plans. But we can make it a point to think things over from time to time. If we focus on our goals, we can create an estate plan to accomplish them.

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