

# 10 REASONS TO REVIEW YOUR ESTATE PLAN

The following are ten reasons why you may need to revise your estate plan to bring it up to date in order to protect your family and minimize federal and state death taxes.

- 1. Are the guardians of your children, the executor named under your will, and trustees of any trust still alive, ready, and able to serve?** If not, you may need to amend your wills and trusts, or execute new ones, to replace them with those who are ready and qualified to serve in these positions, to protect your family.
- 2. Has a change in circumstances created a need to replace the executor, guardian, and/or trustee?** In some situations, those persons originally named may no longer be the best person to serve in those capacities, due to advancing age, infirmity, declining mental capacity, or change in financial circumstances. If so, you will need to change your estate planning documents to name suitable and qualified replacements.
- 3. Have any of your designated beneficiaries (spouse, children, and other relatives) died? If so, does their share pass to other beneficiaries as you intended?** If not, changes to your will and trust may be required in order to carry out your intent.
- 4. Do you want to add, delete, or change any of the beneficiaries, or their share, under your will and trust?** In some cases, you may wish to add a charity as a beneficiary for part or all of the disposition. Or, a change in financial circumstances may cause you to leave one beneficiary more, or less, than previously dictated. Finally, in some circumstances, you may determine that you wish to add or delete a beneficiary from your will.
- 5. Do your current estate planning documents conform to current tax laws?** In many cases, people sign wills early in their careers, when they have limited asset values. In most cases, these were “sweetheart” wills, with all assets passing at the death of the first spouse directly to the surviving spouse. Under current tax law, each spouse can transfer \$1,000,000 (for Oregon) and \$2,000,000 (for federal purposes) tax-free to the next generation (children), if their wills are set up correctly and their assets are owned properly. Continuing to use these sweetheart wills means that the first spouse to die forfeits their exemption amount, which may cause the family to pay millions of dollars in unnecessary death taxes.
- 6. Have you gotten divorced?** If so, state law may automatically revoke bequests under your will to your former spouse, but the remainder of your will probably remains valid. This may cause problems, unless you revise the will and related trust entirely, so that the former spousal bequests are then disposed of in the manner that you intend. We recommend that divorced individuals execute a new will, in order to handle these problems. Moreover, we recommend that newly divorced individuals take immediate action to change the beneficiary designations under their retirement plan, IRA, and life insurance

policies. Otherwise, despite a divorce, the benefits will pass directly to the named beneficiaries, including an ex-spouse.

7. **Have you remarried?** If so, we recommend that remarried individuals with children from a first marriage consider establishing a QTIP (qualified terminal interest property) trust, along with new wills. Under the QTIP provision, the income (and some principal) from the property held in the trust can go to the new spouse for his or her lifetime; however, at the death of the surviving spouse, the children (or other beneficiaries designated) receive the remaining principal.
8. **Have you adopted or added children?** If so, you need to check your will to make sure that they are properly provided for. While most estate planning documents automatically provide that after-born or adopted children will receive an equal share, some do not and need to be revised.
9. **Have you moved to another state?** The laws of your new state could distort or even invalidate some of the provisions of your present will, and adversely affect your tax situation as well. This is especially true if the move is from a common law state to a community property state.
10. **Have you acquired property in another state?** If you live in one state and own property in another, that may subject your assets to a second probate administration process. Individuals should consider putting property held in a second state into a trust or partnership (LLC) that the individual can control. Accordingly, when the individual dies, the property will pass to the trust beneficiaries, without the necessity of probate in a second state.

Too many people assume that estate planning is a “one-shot deal”; that once done, it need not be revisited. Unfortunately, changes in tax laws, family and financial circumstances may cost hundreds of thousands of dollars in unnecessary taxes, or distort the planned distribution of assets, if the estate plan is not reviewed periodically. Accordingly, individuals should review their current estate plan now to see if changes should be made.

Feel free to contact Barry Rubenstein or John J. Christianson at Watkinson Laird Rubenstein Baldwin & Burgess, P.C., at (541) 484-2277 in Eugene, (541) 673-5528 in Roseburg, (541) 923-8767 in Redmond, or (541) 757-1365 in Corvallis for further information.

