May 25, 2018 | Estate Planning, Tax, & Probate, Insights

Estate Planning Toolbox – Frequently Asked Questions

By: Rich May

Every year, you update your smartphone. You may be on an automatic renewal plan or you may have dropped it and cracked the screen. Yet, you have not updated your estate plan.

Some of you (and you know who you are) have not even done an estate plan. If you are wondering whether you need to do so, here are some questions you can ask yourself to help determine.

I DON'T HAVE A PLAN YET AND AM FEELING OVERWHELMED. HOW SHOULD I GET STARTED?

Consider who you would like to make medical and financial decisions for you in case of emergency. It may help to appoint someone geographically close-by. Gather their legal name, address, and phone number.

Consider who you would like to distribute your assets at death. This person should be organized and trustworthy. Gather their legal name, address, and phone number.

Would you like either of the persons above to be guardian of your minor children? If not, gather that person's legal name, address, and phone number.

Think of your major assets – for example your home, bank account, retirement account, and insurance. Are these assets held in your name individually or owned jointly with your spouse? Have you appointed a contingent beneficiary where applicable? Do any items need to be updated?

Talk to your family members and loved ones. Is there one child who is more mature and feels ready to make stressful medical decisions if necessary? Are there particular items with which they have a strong emotional connection? Do they understand and respect your wishes? Do you anticipate any disputes?

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I FEEL STRONGLY ABOUT MY BURIAL. HOW CAN I EXPRESS THOSE WISHES?

Some clients have deeply-held personal or religious beliefs regarding care of their body or instructions regarding funeral service. By planning, you can express those wishes to your loved ones.

You may also make arrangements in advance, for example by purchasing a particular funeral plot. Planning ensures your surviving family members can complete your burial quickly and cost-effectively.

I DON'T HAVE A LOT OF ASSETS, BUT A CERTAIN ITEM IS PARTICULARLY IMPORTANT TO ME. HOW DO I ENSURE A SPECIFIC PERSON RECEIVES IT?

You may fear family squabbles over particularly sentimental or valuable assets. For example, jewelry, art, or other collectibles may offer both financial and emotional worth. By planning during life, you can distribute your assets on your death as you see fit. Importantly, Rich May offers flexible tools that can be changed over time – for example as your children age or your relationships change.

IS THERE ANYTHING I CAN DO TO HELP MY FAMILY MEMBERS ORGANIZE MY ESTATE?

Listing your assets can organize administration by your surviving loved ones. The emotional toll of death can be made more difficult by the reality of the need to close bank, telephone, and electronic accounts, pay outstanding bills and debts, and transfer, sell, or dispose of property. This can be particularly complicated if a survivor has to identify those accounts and passwords, or if property has to be sold to pay taxes. Rich May offers a streamlined process to organize assets and store estate plans for ease of access by loved ones. Clients may also wish to list accounts jointly with their spouse or power of attorney.

I ALREADY HAVE AN ESTATE PLAN. IS THERE ANYTHING I NEED TO DO?

Revisions may be necessary due to legal changes. Older estate plans may not authorize release of medical records, consider electronic accounts and access, or maximize tax benefits:

- If your plan was prepared in the 1990s, there is now a Massachusetts estate tax and certain provisions in your documents need to be updated. Also, HIPAA requirements have changed, and it is best practice to provide releases of your medical records so that your proxy is not having to jump through hoops during what will likely be an emotional time for them.
- If your plan was prepared in the 2000's, there are now portability provisions, allowing you to have flexibility to utilize unused exemption amounts that your husband or wife did not use. If your plan was prepared in the last few years, you should still review the people you have chosen as your personal representative (executor/executrix), trustee, healthcare proxy and power of attorney to see if perhaps they have passed away,

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moved away, or your child or children are no longer minors and you wish to have your child serve in these roles.

Reflect on your life changes since planning:

- Have you received a large inheritance? This might come in the form of a gift during the lifetime of a relative, getting stock in the family business, or simply being the beneficiary of a trust or will from great aunt Martha. These assets, whether cash or stock or property, may bring your estate over the Massachusetts estate tax exemption or the federal exemption. We can navigate these taxes for you and determine whether more sophisticated techniques need to now be employed than your current will.
- Has your marital status changed? If you completed your plan and are now divorced, your ex-spouse is treated as having pre-deceased you. You need to do a new estate plan. You will change your ex-spouse's fiduciary role to an adult child or sibling or parent. If you are getting married, you will want to take advantage of the marital deduction and eliminate estate taxes on the first of you to pass away.
- Do you have kids who are minors? You may need to update guardianship provisions.
- Did you start a business or receive a promotion? Maximizing tax benefits now may save money over the long-term.
- Do you still have good relationships with your healthcare proxy and attorney-in-fact? It may be time to nominate adult children to take on those responsibilities instead.
- Are all addresses in your plan current? Your appointments should have updated contact information in case of emergency.
- Did you move out of the state? Your estate plan may not be in compliance with your current state of residence.

We at Rich May, P.C. wish all of our clients a long and happy life! Anyone with questions on planning can contact Rich May attorneys Danielle Justo and Gerald V. May, Jr.

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