



When Should You Talk To an Attorney About Updating Your Will?

Establishing a will or a trust is an important first step in your planning. However, in order to ensure that your final wishes are honored and your assets are ultimately distributed to your rightful beneficiaries, you have to maintain your plan. Changes in your life may necessitate updating your estate planning documents from time to time. Highlighted below are some common situations that should prompt you to revisit your estate plan.

You get married or enter into a registered domestic partnership. Under Oregon law, marriage or registering a domestic partnership will effectively revoke any will executed by either spouse or partner prior to the marriage or registration of domestic partnership.

You get divorced or terminate your registered domestic partnership. Similarly, if you divorce your spouse or terminate your registered domestic partnership, any provisions in your will in favor of your spouse or registered domestic partner will be revoked by process of law. Accordingly, you should revisit your plan any time your marital status or partnership status changes.

You have children, or your children have reached the age of majority. Perhaps your will does not contemplate children who were born after you had the will prepared. Or perhaps you prepared your will when your children were minors and left their shares in a trust that may no longer be necessary now that they are grown. In either event, it is a good idea to revisit your plan from time to time to ensure that the provisions regarding the distributions to your children are consistent with your wishes.

Your beneficiaries change. The death of a loved one may cause you to rethink who you want to recognize in your will. Similarly, the birth or adoption of a child or grandchild may warrant the addition of new beneficiaries. Or you simply may have changed your mind about who you want to receive your estate assets after you pass away. If your beneficiaries change for any reason, you should speak with your attorney about updating your estate planning documents to ensure that your remaining estate assets pass to your intended beneficiaries.

You need to update your nominated executor. If the individual(s) you named to serve as your personal representative or trustee under your estate plan have passed away or have become incapacitated, or if you have simply changed your mind about who should handle your affairs, you should update your estate planning documents to ensure

that people you trust are appointed to manage your estate after you pass away.

Your assets change. If your assets have substantially increased since you prepared your estate plan, it may be beneficial to incorporate some tax planning provisions into your will or trust in order to minimize your estate tax liability. On the other hand, you may have incurred high expenses, allowed a large life insurance policy to lapse, or made gifts during your lifetime, and your estate may have decreased in value. If you previously had a complicated plan for purposes of minimizing estate taxes but estate taxes are no longer of concern, you could consider simplifying your plan.

You move. Property laws and estate tax limits vary from state to state, so it is important to see an attorney if you move to ensure that your plan will accomplish what you want it to under different state laws.

A beneficiary becomes disabled. For many people, the receipt of an inheritance is an opportunity to improve their lives. However, for disabled beneficiaries who are reliant on government benefits for their support, the receipt of an inheritance may put their benefits in jeopardy. If one of your intended beneficiaries suffers from a disability and receives government benefits for his or her support, consider leaving the disabled beneficiary's share to a special needs trust. See our newsletter called "Special Needs Trusts and Estate Planning for a Disabled Beneficiary" for more information.

Life is unpredictable, and it is impossible to plan for every contingency. Accordingly, it is good practice to review your estate plan if your circumstances change to ensure that your plan continues to be consistent with your wishes. Even if you have not experienced any major life events like those described above, it is important to revisit your plan every three to five years to make sure it is current. An experienced estate planning attorney can help you identify potential issues with your plan and can discuss various planning strategies to suit your needs.

DISCLAIMER – The information contained in this article should be used for general purposes and should not be construed as legal advice. Consult with your own attorney if you have specific legal questions.

Law Offices of
Geoff Bernhardt & Julie Nimnicht
5603 S Hood Avenue
Portland, OR 97239
503-548-4000
www.elderlawpdx.com