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Is Your Estate Plan Due for a Check-up?

Everyone has an estate, and every estate needs a plan. Whether you consider yourself rich or poor, when you die you will leave behind assets. Your estate might include cash and investments, real estate, tangible personal property, or even an interest in an operating business. At its most basic level, an estate plan determines how your assets will be distributed to your heirs after you pass away.

But according to Joseph M. Mentrek of Meaden & Moore, “An estate plan isn’t just about assets, it is also about people. And when you add taxes to the mix, a process that could have been fairly simple has the tendency to become quite complex.” Mentrek continues, “So even if you already have an estate plan, it is imperative that you revisit that plan in order to ensure that it remains relevant under your current family and financial circumstances.”

An effective estate plan will evolve and adapt to changes in your assets, changes in family or business circumstances and changes in the tax laws. Just like an annual visit to your physician, a periodic review of your estate plan can either reinforce the fact that all is well and in order, or it can uncover the need for additional attention to return your plan to a healthy state. Keeping a keen eye on your plan will go a long way in avoiding disputes between your heirs and managing the amount of your hard-earned wealth that must go to cover federal and state estate taxes.

No matter what your net worth, a basic estate plan should include a valid will, durable general (financial) power-of-attorney, health care power-of-attorney, and a living will (if you desire to make that directive). More complex family or financial situations may make it desirable to employ the use of a trust or series of trusts to effectively accomplish your goals. An estate plan check-up involves a review of the terms of all of these documents, with a particular focus on determining whether the persons you named to act in your absence remain appropriate, and determining whether the plan for disposition of your assets is still what you desire. In addition to the implementation or review of your documents, your estate plan check-up should look at the effect of related issues such as the desirability of life insurance, disability insurance, or long-term care insurance, as well as the ongoing impact of pre-nuptial agreements, buy-sell agreements, or any other documents that affect your assets.



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The present state of uncertainty regarding federal estate tax laws makes matters even more challenging. Under current law, the estate tax does not apply to the estates of persons who pass away during 2010. However, the tax is scheduled to reappear in 2011 with a lower exemption and higher rate than was in effect at the end of 2009. And with the election season lurking, it is anyone's guess as to what, if any, action Congress will take to re-establish a sense of certainty. Unfortunately, many older plans may not have been drafted with this veritable roller coaster in mind. Consequently, the terms of your existing plan may be open to interpretations that could lead to a vastly different result from what you originally anticipated, particularly with regard to the tax-driven formulas related to the funding of trusts.

The end result is that there may never have been a better time to schedule a check-up with your planner. The time you spend will give you peace-of-mind--knowing that your financial affairs are in order and that you have adequately and appropriately provided for your family.

If you have any questions, please contact me at (216) 241-3272 or jmentrek@meadenmoore.com.