Couples: 5 Reasons to Review Your Estate Plan

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I see about 500 new individuals or couples every year to talk about their estate plan. Occasionally, I find couples who have done no planning at all. In the vast majority of cases, though, people have a plan.

It just may not be the right one, especially if it was done a while ago. Many lawyers (including me) will review your estate plan and make recommendations for changes for free. If you are a couple, here are some reasons you might want to have your estate plan reviewed:

1. **You're older so therefore your concerns have changed.** My new clients are all over 55. Their original estate plans typically were designed for simplicity and probate avoidance. Once they get to a certain age, though, often around 65, they start worrying about possible nursing home costs, especially if one spouse passes away and the other later needs nursing home care. They can protect each other in this situation, but only with wills containing testamentary trusts. Their current plan, while it avoids probate and therefore saves possible probate costs, may expose their surviving spouse to vast nursing home expenses. If that is a concern, it may be time to update your estate plans.
2. **Your assets have increased.** Property values have gone up a lot. So have investments. If couples have assets worth more than $1M, their children may be looking at a Massachusetts estate tax bill after the second spouse passes away. The initial marginal estate tax rate on the first dollar over $1M is 40%. By structuring your estate plans correctly, they can typically eliminate the Massachusetts

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Department of Revenue as a beneficiary of their estate.

3. **Your assets have decreased.** Conversely, I often see clients with thick estate planning binders full of documents whose only basic purpose is to avoid estate taxation, even though their estate would no longer be subject to estate tax. Those packages typically do nothing to protect couples from potential nursing home bills. These folks may want to update their estate plans.
4. **You have a useless irrevocable trust.** Transferring assets, especially your home, to an irrevocable trust is unnecessary given recent changes in MassHealth rulings; and as such, the trust may no longer even be valid. Contrary to popular myth, these trusts can often be changed or undone if necessary.
5. **Your family needs have changed.** Perhaps one of the kids got divorced, or has financial problems, or there is a disabled child, or one of you is sick. Certain changes in the family dynamics may affect the way you have your estate plan designed. Make sure your plan meets your current needs.

Maybe your current plan is fine. Maybe it needs a few minor tweaks. Or, maybe there is something really wrong with your current estate plan, and it would be worth the money to fix it. You owe it to yourself to at least find out. If you need more information on this, you can contact me at (508) 860-1470 or abergeron@mirickoconnell.com. You may also find Frank and Mary's YouTube channel to be a helpful resource, as I address many common issues facing seniors and their loved ones. All of my cable TV shows, educational seminars and 10-minute elder law Q&A Fireside Chats are available at www.youtube.com/elderlawfrankandmary.

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