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A New Year's Resolution for Your Family?

As the New Year begins, it is a good time to reflect on what you would like to accomplish in the coming year. One goal should be to review and update your estate plan. That means, of course, reviewing your Will, your General Powers of Attorney and your Advance Medical Directives. These are your core estate planning documents that everyone should have. If you also have a Revocable Living Trust, the provisions of that document should be reviewed as well.

What will you be looking for as you review these documents? Consider whether the provisions that you included when you originally drafted the documents still make sense today. Your children are older, you may have grandchildren now, or there may have been births, deaths, marriages or divorces that have an impact on decisions you previously made.

Tax laws certainly have been changing, and these changes may require adjustments in your planning documents. For example, the Unified Credit for the Federal Estate Tax increased, as of January 1, 2006, to \$2 million. This is certainly good news since more of your estate can be protected from the estate tax. However, it may be necessary to adjust your "funding" mechanisms so that any tax-planning trust that you may have incorporated into your estate plan is not now over-funded.

While the savings under the Federal Estate Tax laws may have increased, the Maryland Estate Tax limits have remained static so that only \$1 million can be protected. This difference can sometimes create a tax trap by causing a surviving spouse to pay a significant Maryland Estate Tax upon the death of the first spouse.

The annual gift tax exclusion for 2006 has also gotten a bit of a boost. In 2005, the amount of any gift that is given during the year was limited to \$11,000 before the Federal Gift Tax kicked in. That amount is now \$12,000.

Your estate planning documents are only a part of your estate plan. In your review, you should confirm that your beneficiary designations for your life insurance policies and retirement accounts are set up properly. This is particularly important if a trust is to be established upon your death, either for tax-planning purposes or for asset protection purposes. Unless the trustee of any such trust is named as a beneficiary, it will be very difficult, if not impossible, to get the proceeds of a retirement account or insurance policy into such a trust.

Another area to be reviewed is the titling on your bank or investment accounts. Although it is tempting to add a child to such an account for convenience purposes, it generally is a good idea to avoid this approach. Instead, setting up a "convenience account" at a bank can accomplish the same goals, but you retain the ownership of the account.

If you established a payable-on-death (POD) account at a bank or a transfer-on-death (TOD) account with a brokerage, review your elections to make sure that the arrangements you previously made still make sense in light of your overall estate planning goals.

Doing all of this may sound like a lot, but it really will not take that much time. As you go through the process, be sure to contact your network of professionals (attorney, accountant, broker, or insurance agent) to get questions you have properly answered. You should also consider updating your family so that they all know where your estate planning documents are and the role each member of your family may need to play if something happens. Finally, if there is an element of your estate plan that may not be received well by your beneficiaries, consider communicating directly with those beneficiaries now to make sure they understand your estate planning goals.