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New Year's Resolution – Get Your Will and Estate Plan In Order!

By James S. Rizzo, Esq.*

While most New Year's resolutions focus on fitness, weight loss, general self-improvement and/or job changes, getting your estate plan and assets in order rarely makes the list. According to a recent study by the legal group Lexis/Nexis, a shocking 55% of Americans do not have a Will or other estate plan in place. Another survey found an alarming 92% of adults under the age of 35 have no Will.

The family turmoil and potential litigation caused by not having assets and a proper estate plan in order are limitless. Besides the irreparable damage done to family relationships when fighting over assets, the cost of litigation alone may drain an estate down to nothing.

A few of the issues left unresolved by poor or no estate planning are: Who will care for and manage minor or disabled children left behind? Who will gain title to a home or other real property? What will happen to your bank accounts, stocks, bonds, 401Ks and other IRA/retirement plans? What if the beneficiaries on your life insurance die before you? If you lawfully own handguns, are you leaving them to another licensed owner or are you willing to risk them having to be turned over to authorities? Who will get your vehicles, antiques, family heirlooms and collectibles? Also, if it is your intention to leave some of your assets to a special charity, friend or far away relative, dying without a Will makes such "intentions" meaningless.

Where to begin?

1. List your goals and fears. Among the most common: ensuring guardians are in place for minor or disabled children; making sure there will be enough assets to cover college costs; protecting assets/primary residence from being taken by a nursing home; making sure your spouse, children, grandchildren or other loved ones are provided for, etc.

2. Get your Assets organized. Crafting an estate plan best suited to your needs requires a working knowledge of your net worth, knowing most people greatly underestimate their assets. Similar to preparing your tax return, compile your most recent statements: bank accounts, CDs, money markets, investment/brokerage accounts, annuities, bonds, stocks, IRAs [including 401ks, 457, 403(b) and tax sheltered annuity plans], life insurance (both death benefits and cash value, if any), estimated value of your home and other real property, automobiles, firearms, business interests and any other assets.

If you have a multitude of funds and find yourself confused or overwhelmed by this task, utilize a financial planner to make investment and/or consolidation recommendations to streamline your finances. A good financial planner will work in conjunction with an estate attorney (and vice versa) to make sure your beneficiary information is up to date for your different accounts and life insurance. Most people do not view or classify this step as “estate planning” when it is actually a critical component of any estate plan.

3. Design your plan with an estate attorney. With your goals and financial information in hand, put your estate attorney to work to present options to best design and complete your plan. Many people desire the standard, “everything to surviving spouse, and the rest split between children”. However, with the explosion of divorce and blended families, such one-size-fits-all Wills can be both obsolete and unclear as the family dynamic changes. Also, the longer a person puts off completing an estate plan, a nursing home stay becomes more of a reality which can warrant setting up an Irrevocable Medicaid Trust to protect assets.

4. Make sure it gets done! There is great satisfaction that comes with finality. Don’t wait for perfection or until tax time or until the vacation is over. Make the final appointment and usually, in about an hour or so, all will be complete and you’ll have one very essential item off your To-Do list. More important, a generation of assets and personal and real property will be protected, preserved and distributed to those loved ones you have chosen, and to those who will appreciate them the most.

5. Update your Estate Plan as needed. At minimum, your estate plan should be reviewed with an estate attorney every 3 – 5 years to make sure no changes are needed. A lot changes as the years go by: people are born, die, get divorced, family/friend relationships change for better or worse, you can gain or lose substantial assets, become disabled or suffer from a debilitating illness and of course the same changes apply to the beneficiaries you name. An estate attorney should be able to steer you through these changes to keep your plan updated.

Let 2017 be the year you preserve and protect your assets and give yourself and your family the gift of peace of mind should some tragic turn of events occur.

James S. Rizzo is an attorney with the law firm of Hilton Estate & Elder Law, LLC, with offices in Rome, Utica, Boonville and Lowville, NY. He has over twenty-one years of legal experience and concentrates in Estate Planning matters, including Wills, Revocable and Irrevocable Trusts, Powers of Attorney, Health Care Proxies, Asset Protection, Nursing Home/Medicaid planning and related Litigation issues. He can be reached at (315) 624-9600 or jsr@hiltonlawny.com for a free, confidential initial consultation. Also visit us on the Web at: www.hiltonlawny.com.

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