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Have You Spring-Cleaned Your Estate Plan?

By Carina Lyn Roselli, Esq.

MUCH LIKE YOUR YARD, GARAGE, CLOSETS, AND CARS—your estate plan needs spring-cleaning.

Like Mother Earth, our circumstances constantly evolve as we enter new “seasons” of life, and those new seasons often create a need for us to update our estate plans.

Operating under the assumption (and hope) that you have an estate plan to spring-clean, how many evolutions have occurred in your life since the last time you and your attorney reviewed your plan?

- Did you get married or divorced?
- Did you have or adopt a child, have one head off to college, or have one have children of their own?
- Did you welcome a new pet into your home, or acquire a horse or other livestock?
- Did you move to a new state or even a new country?
- Did you start a new job, or acquire, open, or close your own business?
- Did you buy or sell a house, land, timeshare, or commercial building?
- Did you buy a boat, plane, firearms, or other special assets?
- Did you start collecting rare coins, cars, Star Wars™ memorabilia, or other valuable things?
- Did you lose a family member or friend? (were they part of your estate plan?)
- Did you inherit something significant?

Many of us will answer “yes” to at least one of these questions, and for better or worse, these events and changes disrupt our lives—and our estate plans. The plan you set in place before these events and changes may no longer be right for you. New seasons of life demand you plan for the new needs and goals that come with them. Accomplishing that starts with you digging up your documents and giving them a thorough read through,

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preferably with your attorney. (Plus, unbeknownst to you, state or federal law may have changed, and your estate plan may now contain outdated provisions that could compromise your prior planning).

You and your estate planning attorney should discuss any “yes” answers to the questions listed above, as well as any potential yeses that may be coming soon. Each “yes” could necessitate changes to your plan. For example, a few of the most common estate plan disrupters:

Marriage: When you get married, your entire estate planning strategy usually changes. If you don’t update your plan, your money and assets may not automatically go to your spouse, especially if you have children from a prior marriage, a prenuptial agreement, or if your assets are jointly owned with someone else (like a sibling, parent, friend, or business partner). You may also choose to update the beneficiary designations of your insurance policies, bank accounts, retirement accounts, property deeds, and any pay/transfer on death accounts, etc. to ensure your new spouse is set up to receive those benefits cleanly outside of probate.

Divorce: Under Virginia law, a divorce judgment or settlement agreement automatically extinguishes some of your former spouse’s rights. For example, if your former spouse is a beneficiary of your Will or Trust, divorce or annulment revokes their right to receive any benefits or property those documents may confer (unless the documents specifically say otherwise). But, just as you had to add your spouse as beneficiary of your insurance policies, bank accounts, retirement accounts, property deeds, and any pay/transfer on death accounts, etc.

upon marriage, you now need to remove them from every policy, property deed, and account upon divorce. Getting a divorce does not always automatically exclude a former spouse from receiving such benefits upon your death.

Also, if your divorce is contested and appears to be on track to take many months or years to finalize, you would be prudent to update your estate plan as much as possible even before your divorce is finalized. You don’t want a warring spouse to have access to or control of your assets, to make healthcare decisions on your behalf, or to benefit from your untimely death before a divorce judgment is entered by the court.

Birth or Adoption of Children: It is always a good idea to check and add the new child as a beneficiary of your Will and Trust because they may not “automatically” be included, depending on how the document is written. A child who is accidentally omitted from a parent’s Will or Trust (usually because they were born after the Will or Trust was created) is called a “pretermitted child.” Depending on the state, the omission of a child may be presumed as deliberate and the child may not be included as a beneficiary of your estate, or they may be statutorily included in your estate but their statutory benefits often aren’t what you would have intended for them.

As the seasons of your life change, spring cleaning is probably in order to make sure your estate plan evolves appropriately along with you. If you answered “yes” to any of the above questions, or if you don’t even have a plan to spring clean, check out my website at www.clrlaw.pro and book an appointment to get started. Let me give you some peace of mind so you can relax this summer.



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