



A New Year, A Good Time to Review Your Will

Ellen S. Walker, Esquire
Miller, Miller & Canby
200-B Monroe Street
Rockville, MD 20850

Remember when you cleaned out your home or office and found your Will? Yes, the one you signed in the 80s! You and your spouse were just starting out, didn't own much, but you were starting a new life and family. You needed a Will to name a guardian for your children. You were advised then to review your Will every five years. Time sure flies. Your business and career advanced, your children grew, and you now have grandchildren. It's time to redo your Will and plan your estate to protect what you have worked for all these years. And there's no time like the beginning of a new year to plan and prioritize. You'd like to save taxes, maybe minimize probate, make sure that everything goes smoothly for your family. But how should you proceed and what do you need to know?

Step 1: INFORMATION GATHERING

When you call an attorney to begin the process, expect to be asked some basic questions: Who is to receive your property? Can you estimate your net worth? Are there special needs to deal with?

To ensure that this initial consultation is efficient and productive, we ask our clients to complete an Estate Planning Questionnaire and return it to us prior to meeting. You will be asked to assemble information about your assets and liabilities, title to your property, beneficiaries of life insurance policies and retirement plans, anticipated beneficiaries under your Will, special needs, and the names of people to be your executor and possibly trustee. You will also be asked to provide copies of existing Wills, trust agreements, deeds, insurance policies, retirement plan summaries, etc., to confirm title and beneficiary designations.

You should also plan to have your own questions ready. At the forefront will undoubtedly be the question of fees. Is there a flat fee for a particular service, hourly rates, separate document preparation fees? What are the ranges of such fees and the basis for the variations? Will you be billed periodically or

at the conclusion of the work? Although we won't be able to quote your precise fee until the exact work to be done for you is determined, communication from the very beginning about how the fee is structured will save you time as you decide how you want to proceed and will reduce the risk of misunderstanding.

You may also want to ask about those estate planning tools you've heard about and you may have other questions such as:

- How should I handle gifts to my grandchildren?
- What is the best way for me to provide for the education of my grandchildren?
- What do I need to know about trusts?
- Will joint ownership save taxes and probate costs?
- What do I need to know about Medicare and Medicaid eligibility?
- Should I give away my property now?
- Should I make gifts to charities at this point?
- This is my second marriage; how can I best balance the needs of both families?

The information you provide and the questions you ask outline the context for reviewing your Estate Planning Questionnaire, facilitate defining your unique circumstances and help determine which estate planning tools can best help you realize your objectives. When we meet, we both will be well prepared to discuss objectives, examine alternative measures to realize them, make decisions, and begin to implement them.

Step 2: MEETING and PLAN DEVELOPMENT

With your goals or questions articulated, we then meet to develop the plan for you and your family. We verify your general objectives. We examine ways to reach those broad objectives at the smallest tax cost to the family. These suggestions may entail giving away or retitling some of your property now or changing beneficiary designations. The goal will be to attain the maximum benefit of available tax credits and exclusions, but not at the expense of undermining your family's personal needs. We discuss possible courses of action, weighing the benefits and any risks or disadvantages of particular estate planning tools from both a personal, family perspective and from a financial and tax perspective.

At this meeting, we will also discuss naming someone to manage your property and make health care decisions for you during your lifetime if you become disabled. These vital matters can be dealt with in a General Durable Power of Attorney and an Advance Directive for Health care, and we will be able to provide information and guidance about these decisions.

Step 3: PLAN EXECUTION

Once the plan is developed, we draft the appropriate documents and coordinate the ancillary work to implement them. Generally, you should expect to receive drafts of the documents within a few weeks, but don't hesitate to ask for them sooner if you have a special need to move quickly. In addition to the "legalese"-laden drafts, we can provide a reader-friendly "plain English" outline or letter explaining how the provisions of the documents accomplish the details of your estate plan. If you want a more detailed explanation of the meaning of a term or provision, simply ask. You shouldn't feel you are expected to sign something you don't understand to your satisfaction.

Your "final" documents, modified if necessary to reflect your comments and questions, are ready for you to sign. After you do so, you will be advised where to keep the originals, and you will be provided with copies, and given any other instructions which are particular to carrying out your estate plan (for example, obtaining and completing change of beneficiary forms and documents of title, coordinating with your stock broker and banker to retitle accounts). If you want to perform these tasks yourself, we can provide guidance. Attention to details and follow-up is critical. The best documents in the world will not further your estate planning goals if the procedural steps to implement the plan are not completed. Once all of the papers are signed and the details attended to, we will send you a letter affirming the completion of the project.

The one constant in life is change. Tax laws change, finances change, and families change. Don't let another 30 years go by before revisiting your estate plan. Every few years you should schedule an appointment with your estate planning attorney to review your estate plan.

Ellen Walker concentrates her practice in the areas of estate planning, wills, trusts, and estate administration. She has written a number of articles on estate planning and has spoken on estate planning issues before numerous groups. Additionally, she conducts seminars for community groups on estate planning.