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OPINION

Today's Business: Estate planning considerations

By Christine M. Tenore,
Contributing Writer
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Contributed photo

Whether you are beginning to plan for your future or you are reviewing an existing estate plan, there are several concerns deserving attention.

Often, individuals execute a Will, and possibly a Trust, stuff the documents in a drawer or safety deposit box, and don't think about them for years, trusting that the plan they put in place at, say, age 30 is the same plan needed when they are 50 or older.

As life progresses, many of us are fortunate to be able to purchase more than one home — sometimes income producing, sometimes for vacations. These days, it is not uncommon for couples to have a retirement condo in Florida or perhaps a home in Vermont's mountains. Maybe you have a small beach house at Groton Long Point.

If you pass away with property in another state, the laws of that second state become critical as estate regulations tend to vary. If you own property in a

second state, when you pass away your estate may need to go to Probate Court in that state as well as in Connecticut.

If the property is held in a Limited Liability Company (LLC), unless there is an Operating Agreement clearly outlining the succession of ownership, the property may be subject to the terms of your Last Will and Testament, which may or may not be your intended disposition of the specific property.

Some individuals have a sentimental purpose for owning property: an ancestor built the home, for example, or perhaps it's been in the family for decades. A Will may not be the optimal legal tool for the transfer of that property to your intended beneficiaries. After consulting with an estate attorney, you may decide that a Trust is the more appropriate vehicle for you.

With any estate planning, careful attention should be given to the individuals you've named as the executor of your Will. Is this person as trustworthy as you once believed? Are you still in contact with this person? Does this person have the necessary time and expertise to probate your estate when you pass away?

Changing the executor is not problematic. But it must be done properly to avoid a potential challenge.

Another matter of concern: family dynamics.

This is often a difficult subject to discuss with your estate planner as you may need to expose the dynamics you'd rather keep private.

The tension might be between you and the beneficiaries or tension among the beneficiaries themselves. What is a "fair" distribution of your estate? You probably can't prevent all potential controversies if there are tensions in the family, but if you anticipate likely dissension, planning for your estate to be administered through the Probate Court will ensure that your executor will be protected from unwarranted challenges from the beneficiaries. And, there is the added benefit of ensuring that all beneficiaries receive notice of every step of the probate process and have a forum for a challenge, if needed.

Transparency and an opportunity to be heard are often helpful in resolving many conflicts. A Trust also may be an important planning tool, depending on specific family facts.

Finally, we all are aware that federal and state tax laws change over the course of time. Are there additional tax planning techniques that you should implement based upon some new law or regulation? Is your current estate plan adequate to protect your heirs from having to pay estate taxes when you pass away?

With careful planning and periodic review of your Will, and possibly your Trust, your estate plan should change as your life changes, and that will ensure that you have peace of mind.

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