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## YOUR ESTATE MATTERS

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### Estate Planning Update

When I meet with new clients, I frequently get asked the question, *how often will I need to update my Estate Plan?* There is no specific time frame required to update your Estate Plan. You should review your Estate Plan each year to make sure that your wishes are still reflected. For most of my clients, making changes to their Estate Plan would only be necessary if I informed them of recent tax law changes that required an update or after reviewing their Estate Plan they have decided that it no longer reflects their wishes. The most common change that we see is a change of successor Personal Representative, Trustee, Power of Attorney, Guardian or Medical Decision Maker. Another frequent change would include a change in the distribution of a will or Trust. If you are happy with the terms of your estate plan, no changes or amendments are required on any annual basis.

What may require an update or review with respect to your Estate Plan are the assets that you have acquired since you have signed your Estate Planning documents, especially if you have a Living Trust. For example, if you have sold or purchased property, we need to make sure that the new property was purchased in the name of the Trust or that the proceeds from the sale of any property were placed into an account in the name of your Trust. If you have retired and rolled a company retirement account into a private IRA (individual retirement account), we need to make sure that the primary and contingent beneficiaries do not conflict with the estate planning documents that you have put in place. Remember, only assets that are in the name of the Trust or assets where the Trust is named as a beneficiary will avoid probate. For those clients that have a Trust, you should review your assets annually. Additionally, providing updated information to my office will help me assist your successor administrator at the time of your death or

incapacity. Many clients do not discuss their financial situation or the location of their investments with their children and at the time of death or incapacity many successor trustees rely on the information in my file to assist them.

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### Who Should Have Copies of My Estate Planning Documents?

Generally, the successor named in your Trust, Power of Attorney and Patient Advocate should have a copy of the document. The document will identify when they step in, along with their authority and limitations. Many of my clients do not want to provide the full Living Trust to their successor trustee in an effort to keep the terms of their Trust private until their death. In those situations, I recommend that you give your successor trustee a copy of the Certificate of Trust, which merely identifies them as the successor trustee along with some of their rights, responsibilities and individual limitations as a trustee.

If you have updated or amended any of your estate planning documents, you should immediately notify that individual or institution that the document in their possession is no longer valid and provide them with an updated copy. If you have changed the successor in any of your documents, you have a duty to notify any prior successors that their powers and duties have been terminated.

Many clients have contacted me with regard to updated addresses for their children, which are many times the designated successor trustee and/or medical advocate. They have asked whether or not they need to prepare a new document to reflect the new address or phone number. I have advised my clients to attach a sheet of paper either to the front or back of the document with the new name and/or address. Sign and date it at the bottom and attach it to the document. When you take a copy of the

document into an institution, you will have the updated information you need.

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### **Corporate Successor Trustee**

Many of you have designated an institution as a successor Trustee. In most situations our office has provided that institution with a copy of your Certificate of Trust Existence and Authority. However, I would recommend that you contact the bank/trust department that you have designated and confirm that they have been notified of their appointment and confirm that they have the necessary documentation in their file. If for any reason they cannot find the paper work or if you have updated your Trust, it would be a good idea to provide them with an updated copy of your Trust or Certificate of Trust. Our office tries to provide this information to the institution when your documents are signed, but with the change in personnel at most banks there is no harm in following up with them.

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### **The Sale of Trust Real Estate**

If the deed transferring your property into your Trust has been filed and you are getting ready to sell that property or refinance it, there are a couple of things that you should know. If you are refinancing the property, the lending company may require you to transfer the property out of your Trust until the loan is complete. The reason for making you take this extra step is simple, loan companies prefer that the real estate be in the same name as the person that they are loaning the money to (i.e. loan to Bob and Sue Smith; real estate in the name of Bob and Sue Smith not in Bob and Sue Smith's Trust). Loan companies are slowly joining the 21<sup>st</sup> century and many of them realize that the creator of the Trust and the individual taking out the loan are one in the same and many times do not require this extra step. If the lending agency requires you to transfer ownership out of the Trust, many times they will automatically have the title company prepare a secondary deed to transfer it back into the Trust after the loan is complete. If this is not done, please contact our office and for a nominal fee we can complete a new deed for you.

If you are selling the property and it has already been transferred into the trust, the title office may require that your Certificate of Trust Existence and Authority be filed with the Register of Deeds. Filing the Certificate of Trust Existence and Authority shows that the Trust is in existence and that you as the creator/grantor have the authority to sell this real estate. Once this Certificate is filed, any future property that you sell in the same county will not require that you re-file the Certificate, but merely reference the Liber and page number from the first time that it was filed. If you have any questions regarding this matter, please do not hesitate to contact my office as we deal with this issue all of the time.

At the time of sale or refinance the extra steps may seem tedious, but remember that every precautionary step that you take to ensure that your property is in your Trust will save you thousands of dollars at the time of your death by avoiding probate.

### **Client Seminar**

During the year we receive calls inquiring about attending one of my Living Trust Seminars. I have scheduled a variety of estate planning presentations throughout the year. If you are interested in attending or if you know of someone that is interested in learning more about estate planning, please call or email me and we will provide you with the dates and times of any upcoming presentations.

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### **UPDATE REGARDING YOUR DESIGNATION OF PATIENT ADVOCATE AND LIVING WILL**

If you have not signed a HIPAA medical release you can still access this form at our website [www.redmondoffice.com](http://www.redmondoffice.com). Go to the section marked **Estate Planning** and pull up the Article listed as **Update regarding your Designation of Patient Advocate and Living Will** towards the bottom of the article there is a link to the form. Please print off the form and sign as indicated in the presence of two witnesses.