



Insights

Tidying Up for 2019: Are Your Estate Planning Documents in Order?

March 5, 2019

By: Micah J. Nichols and Rodney S. Retzner

A new year means "New Year's Resolutions." Many people commit to financial resolutions for 2019, whether it is eliminating debt or creating a monthly budget. Unfortunately, they neglect their estate plans. Adding estate planning to your resolutions is important for a variety of reasons, whether you are young, old, or in-between:

- **Intestacy.** If you have assets but do not provide instructions for how those assets should be distributed, the State of Indiana will provide instructions for you. If you pass without a Last Will and Testament ("Will"), your assets will be distributed in accordance with Indiana's intestacy laws, which may lead to unintended outcomes. For example, if you are married and have children, but have no Will, your surviving spouse will only receive half of your estate (Your children receive the other half). Alternatively, if you are married but have no children and no Will, your surviving spouse will receive only three-fourths of your estate if you are survived by your parents (Your parents receive the other one-fourth). While many assume their surviving spouse receives all of their estate, Indiana's intestacy laws provide a different outcome. Executing an estate plan can change those unintended outcomes.
- **Probate.** If you value an efficient administration of your assets upon your passing, you should consider avoiding probate. Executing a revocable trust allows you to avoid probate and is generally more efficient than the probate process as assets in a trust do not require court oversight or formal court hearings. Assets in a trust, like your house, vehicles, and investment accounts, can be distributed quickly and almost immediately upon your passing. In Indiana, the average probate process takes between 6 to 9 months. Executing a trust would allow you to bypass probate and avoid a long and sometimes burdensome court process.
- **Minors and Special Needs.** Maybe you have children that are minors or have special needs and you would like to protect and provide financial assistance to them for the foreseeable future. Executing a Minor or Special Needs



Trust would allow you to protect assets for the benefit of your children until they reach a certain age or indefinitely until they pass away. A Minor or Special Needs Trust can also be limited, and you can provide instructions to the trustee on when payments should be made and under what conditions. Without a trust, your minor children can only inherit assets under a certain limit outright in Indiana with substantial gifts to be distributed through a guardianship process. If you have special needs children, a substantial inheritance not in a trust may prevent them from qualifying for government assistance and benefits.

These are just a few reasons why creating or updating your estate plan should be an important financial resolution for 2019.

At Krieg DeVault, LLP, we provide comprehensive estate planning and business succession planning for families and business owners. Little effort and time is needed from you to execute a proper estate plan that fits your individual needs.

Generally, we ask interested clients to complete an Estate Planning Questionnaire and then schedule an initial consultation for you to discuss your estate plan with us. After the initial consultation, we will send an engagement letter that addresses our fees and the scope of our services. Once that engagement letter is signed by you, we begin drafting your estate planning documents. You will have the opportunity to review all drafts and meet with us to discuss any changes. We will also schedule a final meeting for you to sign your estate planning documents. The time commitment involved is 1) completing an estate planning questionnaire and 2) attending just 2 to 3 meetings. We strive to make the process simple and straightforward.

For our fees, we charge a flat-fee or an hourly rate. Flat-fees range from \$2,500 to \$3,500 for an estate plan that generally consists of the following: 1) Last Will and Testament, 2) Revocable Trust, 3) Durable Power of Attorney, 4) Health Care Power of Attorney, and 5) Living Will. We can also customize estate planning packages to include more complex planning tools, such as an Irrevocable Trust or Charitable Trust, as applicable.

If creating or updating your estate plan is one of your 2019 resolutions or if you just want to learn more about our estate planning and services, please contact Micah J. Nichols at mnichols@kdlegal.com or Rodney S. Retzner at rretzner@kdlegal.com.