



DESCHENE: Resolve to make estate planning decisions this year

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BY ROBERT DESCHENE | 0 comments

It's that time of year when many of us firmly resolve to go back to the gym, lose those extra pounds or get organized.

New Year's resolutions date back to the Babylonians and stem from our deep human need for hopeful new beginnings. The Roman god Janus, for whom January was named, was aptly depicted with two faces, one pointing toward the past, the other toward the future.

For procrastinators, a new year offers a perfect opportunity to shake off indecision. Forty-five percent of Americans make New Year's resolutions, but only eight percent succeed. The main reason for failure: People choose too grand a goal, instead of aiming for realistic, achievable steps to improve their lives.

Here are some suggestions of attainable estate planning goals for the coming year:

Make a will

Over two-thirds of Americans don't have a will. If you die without a will, your property may go to people you never intended. You may assume all your property will go to your spouse, for example, whereas part of it may go to an estranged child from your prior marriage. If you have a will, but it is very old, you should ask yourself if major life changes - like marriages, divorces, deaths, or births of new children or grandchildren - make your will obsolete.

Consider a trust

If you have a will, your property will pass to your beneficiaries with no strings attached. So consider whether your family might be better off if you leave them property in trust. Do you want to make sure your property does not end up going to your child's ex-spouse in the event of a divorce, rather than to your grandchildren? Or do you have a child who cannot handle money wisely? If so, a trust can protect your legacy from being wasted or diverted outside your family.

Name guardians

If you have minor children, please do not delay naming guardians to raise your children if you should die before they reach adulthood. If you do not, a judge will, and he or she cannot know what your children need as well as you. Unfortunately, many couples delay seeing legal advice because they cannot agree beforehand who would be the best guardians, but an attorney can help you talk through the various factors that need to be considered, and facilitate your decision-making.

Plan for long-term care

Most of us will need some long-term nursing home-level care during our lifetimes, and that can quickly eat up all the assets we wanted to leave our family. This year, look into the availability and cost of long-term care insurance. If that is not an option, at least consider putting your home in a Medicaid Trust at least five years before you might need nursing home care. This trust guarantees you the right to live in your house until you die, and your family will not need to sell your home after your death to pay off a Medicaid lien. Start the five-year clock ticking now, before Congress decides to enact a 10-year look-back.

Plan for incapacity

A will takes legal effect only when you die. You must also plan who will make your personal, medical and financial decisions if you become incapacitated before death. If you do not sign these relatively simple legal documents while you are competent, your family will be forced to go to court to get the right to make your decisions. If your family cannot agree, an ugly court battle may ensue.

Get organized

Take a few hours to organize your planning documents into a binder, and tell your family where you are storing it. This can be one of the best and most loving legacies you leave your family, who will not be left to scramble to find your will, trust or other documents when they are needed.

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