

# TIME FOR THAT CHECK-UP

By Blake W. Kirkpatrick

As people tend to get older, annual checkups become more and more important (not that annual checkups are not important at any age). However, for many, annual checkups tend to be postponed due to busy schedules or simply the desire to avoid facing what could potentially be bad news. Our bodies, nevertheless, send us little reminders that things have changed (e.g., a little weight gain, a new ache or pain, shortness of breath, etc.) and, therefore, maybe it is time to pay a visit to the doctor or even change some bad habits that may have developed since our last visit. Sometimes, an illness or health scare in someone else causes people to reassess their own situation. By way of example, the diagnosis of cancer in a close relative or friend may cause someone to go in for a checkup.

While perhaps not as critical as an annual checkup may be for health purposes, occasional checkups are a good idea for one's estate plan too. When you think about it, even a diligent health care regimen including annual checkups, cannot prevent that inevitable day at some point. Therefore, making sure your estate plan is also in good order is also important.

So..., how often should one go in for a "check-up" with respect to his or her estate plan? In short, that may all depend upon the facts and circumstances for each person. However, just as it is important to pay attention to little reminders or indications of changes in your body (e.g., a new age spot on the forehead, etc.), you should also probably pay attention to the little reminders or indications taking place that would affect your estate plan. Examples of this could include a death in the family, a divorce or financial hardship for you or a potential heir of your estate, changes in your financial condition, changes in your station in life (e.g., recent retirement) or significant tax law changes.

Recently one of those major events occurred and that event likely affected everyone (not just the super wealthy on which the media focused). As you may know, legislation passed as of the 1st of this year raising the estate and gift tax exemptions to a current level of \$5,250,000 for 2013 (this is indexed to inflation going forward). For many, at least in their own minds, this event took the importance of estate tax planning off the table. However,

what was billed as a "permanent law" may have exacerbated a common misconception that revisiting the estate plan can probably be postponed for a little while.<sup>1</sup> That could be the farthest from the truth. For those with now what may be deemed nontaxable situations, a revisit or checkup of the estate plan may be equally important.

## TOP TEN

### Things to consider...You might need an estate planning checkup if...

1. You do not have an estate plan and you have children and/or are married; and/or you intend to provide for someone specifically with respect to anything you own that would pass at your death.
2. The main document disposing of your estate at death is a Last Will and Testament and you are concerned about probate (or guardianship in the event of your incapacity) in one or more jurisdictions.
3. You do have an estate plan, but it contains traditional A/B Trust planning that contemplated lower exemptions (i.e., any estate plans contain Family Trust or Credit Shelter Trust provisions that were written in a manner contemplating a smaller exemption amount passing to such Trust (this is a major reason why the recent tax law changes could impact a large number of people who no longer fall under "taxable estate situations").
4. You do have an estate plan, but think it is overly complex and would like to return to simplicity now that it seems the tax laws are more favorable.
5. Your focus has changed from a concern about tax issues to one of traditional estate planning issues (or vice versa).
6. You want to reevaluate who you have selected as your fiduciaries (e.g., Trustees, Personal Representatives, Executors) or health care surrogates.
7. You recently moved to Florida, but still have an estate plan that was prepared in your former state of residence (i.e., drafted under those laws).

Reference:

<sup>1</sup> See generally, "Stepping Back from the Fiscal Cliff," by Patrick J. McCann, Jr., Esq., Health and Wellness, February 2013

8. Since last reviewing your estate plan, you have acquired new property, opened new accounts, closed old accounts, or otherwise acquired or retitled assets, including insurance, and are not quite sure whether your assets are titled correctly (in relation to your estate plan) and/or your beneficiary designations are up-to-date.

9. You signed an estate plan a while ago, but never got around to funding that Revocable Trust or completing your beneficiary designations.

10. As a final, general rule of thumb, if none of the above reasons apply but you are between the age of 40 and 55 and it has been 3-5 or more years since you last reviewed your estate plan, or you are between the ages of 55 and 70 and it has been more than a couple of years since your last checkup you probably need to review it again. Finally, just like you would do for health care purposes, if you are over the age of 70-75 or are in poor health, perhaps scheduling an annual checkup of your estate plan is in order?

*This Article does not constitute legal advice and may not be relied upon as such. Each individual's facts and circumstances are different. If you have any questions regarding your particular situation, please consult with legal counsel.*

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