

NEW TO TUCSON? 2010 Update

Did you recently move to Arizona from another state? Are you concerned that you need to update your estate planning documents? Here are a few things you may wish to consider.

Will

A Will, which is valid where it was signed, is valid in Arizona. For example, a Will which was prepared and properly signed and witnessed in Michigan, is valid in Arizona. You may not need to update it. However, you should locate the Will. Be sure you have the original and not a copy.

Trust

A Living Trust is generally valid regardless of where it was signed. Arizona is one of nine community property law states. If your Trust was prepared in a common law property state, you may wish to have the Trust reviewed. If you are married, you may want to amend your Trust and include language that would acknowledge the applicability of community property law. Further, the Arizona Trust Code became effective January 1, 2009. You should determine what, if any, effect the new law has on your Trust.

Health Care Documents

Health Care Powers of Attorney, Living Wills, Health Care Proxies, Mental Health Care Powers, and Declarations are all health-related documents which are State specific. For example, the Arizona forms and terminology are different from the California forms and terminology which are different from the Iowa forms and terminology. You want to express your desires, wishes and directions so they can be carried out whenever you are incapable of a response. Any medical information and your records are governed by the Health Insurance Portability and Accountability Act of 1996 (also known as HIPAA), 42 USC 1320d and 45 CFR 160-164. HIPAA prohibits the release of this confidential information without your consent. If you are unable to respond and give consent, this confidential medical information may be denied to your decision maker. Be certain your documents have provisions authorizing the release of your personal medical information if you become incapacitated.

Finances

Has the economic downturn caused an erosion in the value of a once healthy investment account or retirement account? If your Will or Trust directs the creation of separate Trusts on the death of a spouse, is this still effective? A review should include a determination that all documents continue to be appropriate for your current circumstances.

Summary

A move to Tucson does not necessarily mean a change to your documents. It does present the responsibility to review your plans and determine whether changes should be made.

(Article by Jim Marvel, Law Office of James K. Marvel, PLLC)

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