

Have You Recently Relocated?

If you recently moved to Arizona from another state, are you concerned that you need to update your estate planning documents? There are several things to consider in a comprehensive estate plan.

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, but you should locate it and 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. When a spouse dies, favorable capital gains tax treatment is available for appreciated assets if the spouse resided in a community property state. If you are married, you may want to amend your Trust and include language that would acknowledge the applicability of community property law.

Health Care Documents. Health Care Powers of Attorney, Living Wills, Health Care Proxies, 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. However, if you are unable to respond, this confidential medical information is what your decision maker must have to make decisions for you. Be certain your documents have provisions authorizing the release of your personal medical information.

Finances. Many of us have experienced dramatic financial changes in the past year. Has the economic downturn caused an erosion in the value of your once healthy investment portfolio? The current estate tax exemption, \$3,500,000 per person, is being proposed as permanent. If your Will or Trust directs the creation of separate Trusts on the death of a spouse, is this still necessary when you consider the economy and the estate tax exemption? A review should include a determination that the documents continue to be appropriate for your current circumstances.

Summary. A move does not necessarily mean changes have to be made. It does present an opportunity to review your planning and determine whether changes should be made.