ARE YOU HAVING A BAD "HEIR" DAY?

As Benjamin Franklin once said, "You may delay. But time may not. " No truer are these words than in the case of estate planning. The average person allows 10 to 15 years to elapse before revising their estate plan. Life's ups and downs and the impending estate tax law changes present the opportunity to protect your legacy. Beginning in 2011, the rates in effect prior to 2010 return. Although in 2009 the rate was a flat 45 percent on taxable estates in excess of $3.5 million, in 2011 the top marginal rate will be 55 percent and the exemption rate will also decrease to $1 million. So, for example, if your estate were worth 1.5 million dollars, in 2009 you would not have paid federal estate tax whereas in 2011 you will pay federal estate tax because of the decreased exemption. With this in mind, don't let the heir day of your loved one turn out to be a bad heir day.

How could that happen you say? Well in 2006 46% of the general public had a will, however in 2007 that percentage had dropped to 37%. In actuality, estate planning is about more than just a will. There are four basic documents that encompass any good estate plan. They are: a last will and testament, a general durable power of attorney, a healthcare power of attorney, and a living will.

DESPITE OUR DIFFERENT STROKES, WE ALL NEED AN UPDATED LIVING WILL

Perhaps no clearer example of the ills that can occur when you do not update your estate plan exists than in the case of celebrity Gary Coleman. In 2006, Coleman created a health-care directive that gave his then-wife power to make medical decisions if he became incapacitated and apparently included a statement that he wanted his life to be prolonged as long as possible. After getting divorced and failing to revise his health care directive, Coleman suffered a head injury and was admitted to the hospital with a brain hemorrhage. Coleman's ex-wife made a decision to take Coleman off of life support one day after he was admitted to the hospital. In some states, divorce does not nullify a health care directive. If you have been through a divorce, it's wise to review your estate documents to ensure that they continue to reflect your wishes.

FORM YOUR OWN DYNASTY

Although many problems can arise in the case of failing to update health care directives, perhaps an even greater concern is ensuring that wealth is preserved. Trusts provide a viable option for ensuring that your heirs do not pay excessive estate taxes upon your death. There are many different types of trusts to meet the needs of you and your loved ones. Too often, we underestimate the size of our estate and do not realize the problems we can cause after we're gone. One way in which wealth preservation can be achieved is with a dynasty trust. Despite its name, the term "dynasty trust" has nothing to do with aristocracy. With a dynasty trust, you transfer the assets of a business, real estate, or other income-producing property to a trust. Depending on the exact terms, the income accumulates or is paid out on behalf of the trust's beneficiaries-children, grandchildren, and even remote descendants. Assuming the assets remain in the dynasty trust, these assets will not be included in a beneficiary's estate when he or she dies. Thus, the funds can continue to compound over several generations without any erosion due to estate tax. Because the beneficiaries do not own the assets, there is protection against loss from creditors or divorce proceedings. For this reason, your wealth is preserved and remains in the hands of family members with little or no tax consequences.

<u>CREATE A "HEIR" STYLE THAT WORKS FOR YOU</u>

So when is a good time to update your estate plan? While it is always a good time to update an estate plan, there are some significant life events that mandate a revision. If you've started a business recently, you may need to update your estate plan. Aspects such as business succession planning are crucial to ensuring that the wealth you've worked so hard to build is passed on to those you love. In this changing economy, a loss of a job or early retirement can both invoke the need for a review. Similarly, if you have a spouse that is re-entering the work force or changing from full to part time work, the evaluating your assets is a good idea.

Changes in family may dictate a change in your estate plan such as if a son or daughter should marry someone you don't particularly care for, then you inevitably would want to take a second look at your planning. You want to avoid the risk that your wealth could end up in the hands of a former son or daughter-in-law.

Indeed, even if you like your in-laws there can be other life events to trigger an estate plan update. Have you recently moved into Pennsylvania or are you planning a move to another state? If so, it is good advice to make sure that your plans are protected by the laws of your new locale. Even the happy events in our lives such as happy marriages and births should awaken the notion that our estate plans need to be re-examined.

Perhaps you have a domestic partner who may one day become your heir. Pennsylvania does not recognize same sex or common law marriages. Thus, a same sex or opposite sex non -related individual inheriting from us will be taxed at a rate of 15% in this Commonwealth. Don't let him or her experience a bad heir day. Trust planning and other planning such as beneficiary designations on financial accounts can play a very important role in preserving the assets of your domestic partnership.

Most of us put estate planning on the back burner and choose to wait for tomorrow. By contrast, we groom our hair daily and go to the barber or beauty salon on a regular basis. We would not be caught having a bad hair day! Applying mousse, gel and spray guarantees we will have a good hair day. A similar protection in the form of a good estate plan can be applied so that a bad heir day is likewise avoided. Have your estate plan updated today and do wonders for your heir.