Will(ing) or not: 3 reasons to revisit your estate planning

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My husband, Neil, and I recently planned a trip for the two of us to celebrate his 50th birthday in Anguilla. Because we were leaving our two sons at home, he mentioned that it would probably be a good idea to look over our wills. It made sense given the last time we looked them over was 12 ½ years ago when our youngest son was born.

It is a good thing we did. Both of us had a vague recollection of whom we had chosen as our executor, trustee and guardians. When we took a look at the document, it was totally out of date. I wasn't comfortable with either couple we had chosen as my children's guardians: one we barely spoke to anymore and the other couple wasn't one my children knew well. But, perhaps most importantly, our executor and trustee was my brother-in-law who was in the process of becoming an ex-brother-in-law as a result of a divorce from my sister.

I know attorneys tell us all the time that when we have a life event we need to change our legal documents. Of course, that makes sense. But most of us think of the life events only when they happen to us — our own divorce, the death of our own spouse, etc. When life events happen to others, like my sister's divorce, we are less inclined to think about how it affects our estate planning. "A lot of people put their estate planning on a shelf, they don't look at it for years and the people they have named in there — executors, trustees, beneficiaries, have died or move away," says Beti Bergman, principal and founder of Peninsula Law, a probate firm in Torrance, Calif.

That certainly described my situation. Unfortunately, "there is no [prescribed] time period to ever revisit a will so you have to do it on your own [time schedule], "says Bergman. To that end, Bergman recommends a review every three years, at a minimum. There are some experts who recommend annual check-ups. "We roll a whole bunch of things into the yearly review, and it allows us to have contact with the client," says David Okrent, a CPA attorney and ex- IRS agent. And while you're at it, make sure you add living wills and powers of attorney to the mix.

Aside from the ongoing musical chairs of the people stated in the will and whether you still want them to represent your interests, there are a number of other things that can drive the opportunity to look at your will — even in between the predetermined three-year checkup.

Moves to another state
This most certainly affects your will. “Many people think a will travels from state to state,” says Heidi Schmidt, a certified financial planner at USAA in San Antonio. “There is a federal estate law, however, states are the ones (that) determine the distribution, especially if you have property,” she says.

Increases (or decreases) in assets
Anytime you’re re-thinking where you want your money to go, you can review who gets what from a distribution standpoint. Significant changes in your assets — either up or down – should be a catalyst for you to take a look at your will and make sure the distribution plan you’ve written into it still fits your intentions.

Changes in laws
Federal and state tax laws change every couple of years. “There will be a lot of wills written with hard dollar amounts or formulas that will no longer be relevant. It’s really critical people take a look at that,” says Greg Rosica, a tax partner in Ernst & Young’s personal finance services. For example, right now each parent can leave up to $5 million to their kids without any tax implications, but that will change to $1 million per parent in January 2013, says Rosica. To this end, you’ll want to be flexible with your estate plan and your will.

To be sure, staying on top of your will assumes you even have one. The truth is, the majority of Americans don't even have one, says Eric Dunavant, CFP and president of Dunavant Wealth Group. So once you get one, make sure it is drafted correctly, based on current tax laws and covers your family situation accurately. Once it is done, schedule regular reviews. Your heirs will thank you.