Tax Time is a Good Time to Review your Estate Plan
by Jim Dressman

As the April 15 tax filing deadline approaches, it may be a good time to review your estate plan. If you do not have a written estate plan, including a will, power of attorney, and a healthcare surrogate designation/living will directive, now is the time to create one. If you have a written estate plan, now is an appropriate time to review it and make sure that it does not need updating.

Do I Need a Will?
When US Congressman and former entertainer Sonny Bono died in a skiing accident in 1998, he died intestate – without a valid will. More than a decade later, his heirs were still contesting his estate. This situation is not unusual; only 35% of Americans have a will. If you own anything, or expect to own to anything through your own efforts or perhaps by inheritance, you need a will. If you don't have a will, you are risking unwanted outcomes and potential problems for your heirs. A will enables you to specify not only which assets you want to give and to whom, but also who you want to administer your estate. It is also the most appropriate way to designate guardians for minor children or for adult children with special needs. Any parent of children who need care should have a will, regardless of financial assets. If you have a will, you have taken an important step that many have not, but it is also important to update your will regularly as your circumstances and tax laws change.

What Other Estate Plan Documents Should I Have?
An estate plan is not complete without the execution of valid powers of attorney and healthcare surrogate designations or living will directives (a healthcare power of attorney). It is prudent for every adult 18 or older, including students, especially those away from home, to designate another adult to take care of financial and health matters in the event that unforeseen events leave one unable to make financial or healthcare decisions.

A trust may also be an important component of a properly drafted estate plan. Trusts have many purposes beyond just avoiding the probate process including the care of a dependent with special needs, estate tax avoidance, or protection from unforeseen claims.

Don't Forget to Review Your Beneficiary Designations.
The distribution of many assets is not controlled by a will. Distribution of proceeds from life insurance policies and annuities, IRAs, and other retirement plans and similar accounts are controlled by a written "designation of beneficiary." Many times the designation of beneficiary form is completed in connection with the initial paperwork and is never reviewed again. It is important that your beneficiary designations for such assets be integrated with the estate plan created by your will and other estate plan documents and reviewed and modified as necessary in connection with a review and update of your estate plan.

Should I Worry About Federal or State Death Taxes?
There now appears to be some certainty with respect to federal estate taxes, at least as certain as anything in Washington can be. The unified gift and estate tax credit equivalent is set at $5,250,000 for estates of decedents dying during calendar year 2013. This amount will be indexed to inflation. Any unused credit may be used by a surviving spouse (commonly called "portability") so married couples can now transfer $10,500,000 in assets without incurring gift or estate taxes. Ohio recently abolished its estate tax and Kentucky has abolished its inheritance tax for transfers to parents, children, grandchildren and siblings. Kentucky does have an inheritance tax for transfers to nieces and nephews and more distant relatives. The main significance of the foregoing is that for most people death tax planning is no longer necessary.