

Estate Planning Resolutions for the New Year

By [C.J. Griffin](#)

Each January 1st, many of us set goals or resolutions for the upcoming year, hoping to break old habits and start the New Year off on a healthier, more enlightened path. But in addition to those weight loss and fitness goals, we must also think about our financial and legal health as well. This analysis is critical because the \$5,000,000 federal exemption expires and will revert to \$1,000,000 in 2012. Many of us have postponed important decisions on estate planning because we believed Congress would extend the exemption. Even a casual review of the news from Washington casts doubt on the reasonableness of that belief in the face of upcoming national elections.

Let 2012 be the year to make sure you have faced the issues and have at least the basic estate planning tools in place. We recommend you ask yourself the questions set out below in Part I and make the following 2012 Estate Planning Resolutions in Part II.

Part I- Critical Questions

Does your estate have enough liquidity to pay the increased federal death taxes resulting from the lower federal exemption? Have you properly accounted for the New Jersey estate tax exemption of only \$675,000 in your plan? Does your estate plan rely upon the unlimited marital deduction to escape tax at the first death so as to postpone taxation until the death of your spouse?

Have you considered what alternative courses of action are available to you in the face of the diminished federal exemption of \$1,000,000 that is scheduled to take effect or you have relied upon the marital deduction or Congressional action to solve your problem?

Have you considered annual exclusion gifts, life insurance trusts, low-interest loans, 529 Plans and direct payments of tuition and medical expenses as ways of transferring wealth to family members?

Part II

- **Power of Attorneys and Living Will:** These documents are necessary in the event that you become incapacitated. A Health Care Power of Attorney lets you decide in advance who will make your health decisions while you are incapacitated. A Durable Power of Attorney dictates who should make your financial decisions while you are unable to do so. And, a living will or advanced medical directive tells medical staff what actions to take should you be placed on life support or be deemed terminally ill
- **Will:** Every adult should have a Will, which determines how your assets and property will be divided at your death and who (the executor) will be responsible for distributing these assets. Moreover, the Will can and should name guardians for your children, ensuring their future well-being. A Will not only makes sense financially and legally, but

it helps avoid painful family conflicts that often occur over assets when no Will is in place. Are your selections still valid based on age, health, financial circumstances and strength of relationships.

- **Beneficiaries:** Review all life insurance policies and retirement accounts to make sure the named beneficiaries are an accurate reflection of your wishes.

If you already have these essential estate planning documents, make a resolution to have them updated. If your marital status has changed since you last drafted these documents, or you have new children or grandchildren, or you've gained or lost significant property or assets, then you need to update these documents to reflect your current financial outlook and life situation.