

Women and the law

When to update your will

By Mary Lynn Kirby, P.C.

This month, a question comes from Cindy. She asks if she needs to update her will. Since her last will, her children have become adults and she and her husband have started a new business.

Without seeing Cindy's will, it is hard to say whether her will needs to be updated. The fact that her children are now grown would not necessarily mean she would have to update her will.

Owning a business would certainly mean Cindy would want to make sure her will has all the powers which the law allows for the surviving spouse to have flexibility to continue to operate the business or sell the business, but most wills would have these powers included. (One thing Cindy did not mention, but which would be very important, would be to have a power of attorney giving to someone she trusts the ability to continue her business in the event she became incapacitated.)



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This question leads me to address, in more general terms, the issue of when does one need to update their will? Important events which trigger the need to update would include having (or adopting) children which were not contemplated in a prior will, getting married, getting divorced, or moving to or from another state.

Also, if there is no estate tax planning in your prior will and your estate exceeds one million dollars, an update would be needed to save estate taxes. That exemption goes up in future years, but may return to one million in 2011.

Use something you regularly do to trigger reviewing of your will. I give my dog his heart worm medicine every month when I pay our mortgage. (Poor dog, when our house is paid off!) I suggest that you pull out your will and look over it every time you prepare your taxes (hopefully, that's once a year!) I suggest you review your will with your attorney at least every 4-5 years, or when one of the changes mentioned above occurs. Use your tax preparation in a good way to remind you to review your will!

—Jan

Questions?

Thank you for your estate related questions. Please continue to send them to Mary Lynn Kirby at 120 Howard Lane, Fayetteville, GA 30215.

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