

Need To Make A “Quick Fix” To Your Will?

Executing A Codicil May Be The Answer

For most people, the first step in estate planning is to create a legally enforceable will. If you already have a will in place, consider yourself ahead of the game, but you're far from finished. If, for example, your circumstances have recently changed, your will may be in need of a “quick fix.”

A Supplement To An Existing Will

If you need to make a change to your will does that mean you have to completely re-write it? Not exactly. A simple “codicil” may suffice for a minor change. A codicil is a legal document that's treated as a supplement to an existing will. When your will is subjected to probate, so is the codicil.

Bear in mind that codicils were more prevalent in “days of yore” before personal computers. It was more time-consuming and costly than it is today to replace a will. With a codicil, you only had to address one or two points – not the entire last will and testament. This is no longer a significant factor.

Furthermore, adding a codicil could create confusion relating to other parts of the will. And it's often more convenient for everyone in the family to rely on a single document. As a result, you may redo a will instead of adding a codicil. Nevertheless, using a codicil remains the preferred approach for some people, especially for relatively small changes,

To be legally binding, a codicil must be handled with the same legal formalities as a will. Therefore, it's best to have it prepared by a qualified attorney.

Reasons For Updating Your Will

What situations may trigger a need for an update of a will through a codicil or re-write? Common examples include a:

Birth or death in the family. Maybe you didn't have any children or grandchildren when your will was initially drafted. Now that you do, you may want the newest members of the family to share in your estate. Or perhaps a family member you previously named in your will has passed away. You'll want to remove his or her name from your list of beneficiaries and possibly include other family members who weren't previously named in your will.

Change in executor. In some cases, you may have to select a new executor (or guardian or trustee). This may occur if the one you named in your will has died or become incapacitated and you haven't made adequate contingency plans. In other instances, you may simply rather assign the job to someone else.

Revalidation. Suppose the witnesses who can verify the signature on your will are no longer alive or can't be located. When it's required, a codicil attested to by new witnesses can revalidate the will.

Tax law change. A new or revised tax law may require you to modify certain provisions to take maximum advantage of the latest rules. In addition, there's significant uncertainty concerning the federal gift and estate tax exemption (\$12.06 million in 2022), which is scheduled to revert to its pre-2018 level of \$5 million (plus inflation indexing) after 2025.

Other estate tax law changes are being contemplated by some members of Congress. When possible, revise your will to provide maximum flexibility.

What To Include In A Codicil

For starters, a codicil must have identifying information, including your full legal name, address, the date of the codicil, and a statement indicating that you're of sound mind and not being coerced by

someone else. Explain what parts of the will are affected. Use full legal names when referring to beneficiaries, specify dollar amounts or percentages, and describe any property in detail.

Furthermore, the codicil should state that its provisions supersede what you've written in your will and that all parts of the will not affected by the codicil remain in effect. Sign the codicil and have it witnessed according to state law. Finally, keep it in a secure location along with your will.

Get It Done

Life happens and a lot can change in the years since you've first drafted your will. Your estate planning attorney can help draft your codicil.

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