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## **Estate Planning When a Relationship Ends**

We are frequently asked how often an estate plan should be reviewed. It is generally understood that the death of a beneficiary or the birth of a new family member should be the catalyst for an estate plan review as these events might impact the plan. Very often, perhaps because of the emotions involved, the termination of a relationship is overlooked as an event that should also trigger a review.

Typically, couples in a committed relationship name each other as beneficiaries in their wills and trusts. Each is appointed by the other to serve as the executor, trustee, agent under the power of attorney and health care proxy. Often, when a relationship ends, the confidence and the trust that each party felt for the other has also dissolved. But the will, trust, power of attorney and health care proxy are not the only documents that must be reviewed and updated. Who is named as the beneficiary on your life insurance policies, annuities, IRAs, 401ks, TDAs and other retirement accounts? Are any accounts to be “paid on death” to, held “in trust for,” or jointly with the former partner?

Revising the necessary documents may be a two step process. For example, removing a spouse as beneficiary on a retirement account established through an employer may require the consent of the spouse. Thus, the owner of the account may have to await the final judgment of divorce before the change can be effectuated. Additionally, in most circumstances, until the marriage is judicially dissolved, a spouse, even one from whom you are separated, retains a “right of election” entitling him or her, at your death, to the first \$50,000 of the estate or one-third of the net value of the estate, whichever is greater.

Divorce, separation or the termination of a relationship can be an emotional roller coaster. It is important to remember that the “ride” is not over and the relationship not fully terminated until you have also terminated the power to make

financial and health care decisions and eliminated the right to receive assets at your death. We recommend that estate plans be reviewed every three to five years. However, that review should be accelerated in the event of a separation, divorce or termination of a relationship.