The Estate Planning Check Up

The Tax Relief, Unemployment Reauthorization and Job Creation Bill of 2010 (TRA) was enacted on December 17, 2010, and remains in effect until it sunsets on December 31, 2012. The significant exclusion amount ($5 million per person) protects most Americans from the Estate Tax for the next two years.

Regardless of the potential for your estate being taxed, there are still plenty of reasons to devise an estate plan, or give your existing estate plan a check-up. The following items are submitted for your consideration:

1. **The Basics.** You should make sure that you have all of the fundamental estate planning documents that enable you to leave your assets to your spouse, children, heirs and/or charities you wish to benefit.
2. **Durable Power of Attorney.** Confirm that you have a durable power of attorney appointing a family member, friend or adviser as an agent to act on your behalf in financial and legal matters if you become physically or mentally unable to.
3. **Effective Planning.** Make certain that you have devised and signed documents that provide financially for your spouse, partner, and children.
4. **Allocation Formulas.** Many married couples should revise the formula clauses in their trust documents that allocated the previously lower exclusion amounts to their children, to avoid allocations of their entire estate to their children and no assets to the surviving spouse.
5. **Guardians.** Name a guardian for children who are minors or have special needs and leave funds for them in the event of untimely death(s).
6. **Trusts.** Revocable Trusts can serve many non-tax purposes. Minor children need provision for their future from life insurance proceeds, assets and other sources. You may wish to protect assets and potential spendthrift problems by delaying distribution of your assets over several phases. It may also be necessary to protect assets from creditors and other claimants.
7. **Beneficiary Forms.** You should carefully prepare beneficiary designation forms which cover retirement assets, by naming appropriate primary and alternate beneficiaries.
8. **State Death Taxes.** Beware of the separate estate tax that about half the states have. Such taxes apply if you live in one of these states, own real estate there, and in other select circumstances.
9. **Patient Advocates.** In Michigan, you need to designate a Patient Advocate to attend to your critical medical decisions when you are unable to. You may also need to make similar designations for other states you frequently visit or inhabit.