Estate Planning News

Fall 2016

The Politics Of Estate Tax

The Presidential candidates have opposite views of estate tax. Hillary Clinton's tax plan proposes a 45% estate tax on estates over $3.5 million per person (or $7 million per married couple). She also proposes a 50% tax rate for estates over $10 million per person, 55% for estates over $50 million per person, and 65% for estates over $500 million per person. Donald Trump proposes a complete repeal of the federal estate tax.

Estate Planning After Divorce

In case you do not promptly update your estate plan after a divorce, Colorado law generally provides you with a safety net by treating a former spouse as being deceased. However, several exceptions could leave holes in your safety net resulting in a former spouse inheriting assets even after you are divorced.

In general, under Colorado law, any designations of a former spouse or his or her relatives as a beneficiary or a fiduciary in estate planning documents are automatically revoked upon divorce. These estate planning documents typically include a will, revocable trust, medical and financial powers of attorney, and beneficiary designations for life insurance and retirement plan benefits.

If a former spouse remains named as the personal representative, trustee, or agent, the former spouse will be treated as if he or she is deceased and the appointment will pass to the next named successor who is not a relative of the former spouse. Similarly, a gift to the former spouse under a will or beneficiary designation will pass to the next named contingent beneficiary who is not a relative of the former spouse.

There are exceptions to the safety net of the automatic revocation. Certain ERISA-governed benefit plans are excluded from the automatic revocation, which means that a former spouse who remains named as the primary beneficiary will receive the benefit despite the divorce. Examples of an ERISA-governed benefit plan include a SEP IRA, SIMPLE IRA, group term life insurance, and some 401(k) plans. Other exceptions to the safety net include a written agreement between the parties or a court order specifying the division of particular property.

Despite the automatic revisions to your estate plan upon a divorce, you should review and update all of your estate planning documents and beneficiary designations to ensure that your documents name the appropriate beneficiaries and fiduciaries.

Goddard & Goddard, P.C. partners with clients on estate planning and estate administration matters, including related issues in real estate, oil and gas, business and tax law, and charitable planning.

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Estate And Gift Tax Update

This year, the federal estate tax exemption is $5,450,000 per person ($10,900,000 per couple) and the top estate tax rate on amounts over the exemption is 40%. The annual gift tax exclusion amount is $14,000 per person or $28,000 per couple.

Firm News

Susan B. Goddard received the Philanthropic Award from the Denver Foundation.

Miranda K. Hawkins was elected to the Board of Directors for the Colorado Women's Bar Association.