



IF YOU OR A FAMILY MEMBER IS GETTING DIVORCED, HOW SHOULD IT CHANGE THE ESTATE PLAN?

It is important for a person who has recently divorced to re-evaluate his or her estate plan, specifically the disposition of assets. In addition, appointments of executors and trustees may need to be revisited, especially if the former spouse was named in either capacity. While local state law may revoke any bequests or appointments in favor of the spouse automatically upon the entering of a divorce decree, it may not revoke bequests or appointments for the spouse's other family members.

Divorce counsel should be consulted prior to changing any estate planning documents. Many states issue protective orders as soon as a divorce is filed that prevent the parties from changing their estate plans until the divorce is finalized.

In many states, Revocable Trusts are not automatically revoked by divorce. Instead, Revocable Trusts are governed by the terms of the document. Thus, the creator of the trust generally will wish to amend the provisions of the trust to remove the former spouse as a beneficiary.

Irrevocable trusts generally also are not revoked by divorce. Unlike revocable trusts, irrevocable trusts cannot be modified or terminated. However, irrevocable trusts are often drafted to provide contingencies in the event of a subsequent divorce.