

# THE EFFECT OF DIVORCE ON ESTATE PLANNING

## THE ADVICE I GIVE CLIENTS INITIALLY

Depends on if they are going to file right away

Depends on the type of estate planning they have done

**IF THEY HAVE EXISTING ESTATE PLANNING** - cannot ignore the connection between the divorce and their existing estate planning

**IF THEY DON'T HAVE EXISTING ESTATE PLANNING** – make sure they know consequences of having no estate planning and what they can do without the other spouse's knowledge.

## HAVE THE LIFE INSURANCE DISCUSSION RIGHT AWAY

Character of the benefits dependant on the character of the premium payments

To change a beneficiary or not to change a beneficiary?

## INQUIRE ABOUT WHAT ESTATE PLANNING THEY HAVE

SURPRISING HOW MANY CLIENTS DON'T KNOW IF THEY HAVE SIGNED ESTATE PLANNING DOCUMENTS.

IF THE SPOUSE IS NOT AWARE OF THE CLIENT'S INTEREST IN THE DIVORCE THEY NEED TO SURUPTITIOUSLY GET THE DOCUMENTS.

DETERMINE IF THEY WANT TO CHANGE THE ESTATE PLAN, PENDING DIVORCE.

PARTICULARLY WITH COMPLEXT ESTATE PLANNING IT IS SOMETIMES MORE IMPORTANT THAT THEY SEE ESTATE PLANNING COUNSEL THAN DIVORCE COUNSEL INITIALLY

IS IT A CONFLICT FOR JOINT ESTATE PLANNER TO REPRESENT ONE PARTY WHEN DIVORCING?

ARE THEY EXPECTING ANY INHERITANCES OR GIFTS

NOT JUST WILLS-

CPA

CHECK PRECISE TERMS AS THEY DIFFER  
SIGNIFICANTLY – DETERMINE HOW AFFECTED BY  
SEPARATION AND OR DIVORCE.

POWERS OF ATTORNEY

HEALTH CARE DIRECTIVES

WHAT IS AUTOMATICALLY REVOKED BY FILING A DIVORCE

WILL - NO, UNLESS PROVIDED FOR

CPA – NO, UNLESS PROVIDED FOR

DPA – NO, UNLESS PROVIDED FOR

POA (GENERAL) NO UNLESS PROVIDED FOR

HEALTH CARE DIRECTIVE – NO UNLESS PROVIDED FOR

WHAT IS AUTOMATICALLY PROVIDED FOR ON ENTRY OF DIVORCE DECREE

WILL AS TO SPOUSE

LIFE INSURANCE – YES AS TO SPOUSE

NOT NECESSARILY AS TO KIDS, DEPENDING ON DECREE

DPA – YES AS TO SPOUSE

CPA – YES

POA – GENERAL - NO UNLESS PROVIDED FOR

HEALTH CARE DIRECTIVE – NO UNLESS PROVIDED FOR

TRUSTS – REVOCABLE AND IRREVOCABLE AND THE EFFECT OF FILING FOR  
DIVORCE, PENDING FINALIZATION OF DIVORCE AND POST DIVORCE.