

TAKE THE QUIZ

Am I Leaving My Spouse a Real Tax Problem?

If you read the article on sole use trusts, you now know that you might have an old will that worked at the time but that no longer makes sense. Worse yet, you may be making your spouse pay taxes with money that he or she might need to live. All of this can be avoided but you have to know if your will is drafted in a way that might cause this problem. To help you, we have devised this short quiz:

1) Are you married? If "yes", continue. If "no" you can stop. You don't have this problem.

2) Is your will or trust dated 2012 or before? If "yes", continue. If you revised your will or living trust with UTBF since then, you don't have this problem (or you've decided to do it for good reasons). However, if another law firm prepared your will, continue on. You might still have this problem.

3) Is there a "spousal trust" under your will or living trust? Here you're looking for a trust that says "if my wife/husband survives me..." These can be called marital trusts, QTIP trusts, disclaimer trusts, or residuary or credit bypass trusts among other names. If "yes", continue. If "no", and everything goes outright to your spouse, then you're ok. You don't have this problem. If you're not sure then just call us. There is no charge for the review and we can quickly determine whether or not your will or trusts are up to date.

4) Is he or she (your spouse) the only beneficiary of that trust? If "no", and your children or grandchildren (or other people) can also receive funds from the trust during your spouse's lifetime, then call immediately to review and/or update your documents. Your will or trust DOES have the problem and you want to fix it as soon as possible. Call 610.933.8069 for an appointment to review and update your planning.

If "yes", then you may not have this problem, but you should also consider the following questions: 1) Do you still want or need the trust arrangement for your spouse (the old law that made these necessary may no longer apply)? , 2) Should you add trusts for your adult children or grandchildren to protect them from divorces and lawsuits?, 3) Do you have substantial IRA assets you also want to protect for your heirs' own retirement if you were to die?

If any of these issues are interesting to you, then you can and should call for an estate planning review. These consultations are free for existing clients and once we know what you want, we can quote you a flat fee to do that for you. There is no charge for the consult. 610.933.8069.

More Technical Issues That Might Matter To You:

Drafting a trust is a complicated bit of business. Besides the qualification of a spouse being the only lifetime income and principal beneficiary, there are other clauses and phrases that can cause problems for your trust. For example, if anyone, including the surviving spouse, possesses an inter vivos power of appointment (meaning that they have the power to direct funds to other people during the spouse's own lifetime) that power will also disqualify the trust and trigger the above mentioned unnecessary inheritance tax.

If your spouse has just died, and you have a trust under your will, it is imperative that you see an attorney immediately and before you start transferring assets, so if there is a problem with the trust, as mentioned above, that the attorney might have a chance to remedy the problem.

What to do next.

So, if you're sure that you don't have this problem then enjoy the spring and be well.

If you do have a spousal trust under your will or living trust, and want to make sure it's up to date and that you don't have this problem, here's your answer. Call 610.933.8069 and mention this certificate for a free phone consultation AND review of your documents.

If you need to fix anything or update your documents one of our UTBF attorneys will also give you a free in person consultation. Fees may apply if you do decide to make changes to and/or update your documents and estate plan.

EXCLUSIVE COMPLIMENTARY CLIENT ESTATE PLAN REVIEW

This certificate entitles you (as an existing client of the firm) to:

- 1) a free telephone consult and review of your will and/or trust to rule out unnecessary inheritance taxes that apply to some trusts,**
- 2) A complimentary and in person estate plan review with one of our attorneys if your planning was done prior to 2012, and**
- 3) a 15% client discount on any updates you order.**

This certificate is good for all appointments or reviews booked by April 30, 2017.

To claim your review and/or consult, call Lisa, Tammy, or Kara at 610.933.8069 and mention this certificate. Please also bring this certificate with you if you have an appointment in the office.