

TAX & WEALTH ADVISOR ALERT: ESTATE PLANNING CONSIDERATIONS FOR SECOND MARRIAGES

It is becoming increasingly common for people to get divorced and then remarried. In these situations, one or both spouses entering into a new marriage usually has children from a prior relationship. Anyone who has children from a prior relationship and remarries should review their estate plan and make any necessary updates to ensure their assets are distributed according to their wishes.

Under Wisconsin law, the assets of a deceased spouse who dies intestate will automatically pass to the surviving spouse. When there is a second marriage and children from a prior relationship, however, the assets of a deceased spouse will be divided between the surviving spouse and the deceased spouse's children. In these situations, complications frequently arise when the main asset of the deceased spouse's estate cannot easily be divided, such as a house. And even if assets can be easily divided, the surviving spouse and children may disagree about who should receive what.

Complications may also arise when people fail to update the beneficiary designations, transfer-on-death designations, or payable-on-death designations on their non-probate assets (click [here](#) to read about the difference between probate and non-probate assets). For example, if a person designates his or her new spouse as the beneficiary of a bank account, then the new spouse will inherit the entire account upon that person's death. Unless the surviving spouse names the deceased spouse's children as the primary beneficiaries of the account, the surviving spouse's children would likely stand to inherit the bank account rather than the deceased spouse's children.

Finally, disputes may arise in the event of incapacity. In those situations, a person's adult children and new spouse may disagree over who should be able to make financial or medical decisions and what those decisions should be.

There are many other issues that may arise and factors to consider, but the main takeaway is that it is very important to review and update your estate plan as a result of a major life event like a divorce and subsequent marriage. Failing to do so could frustrate your estate planning intentions and lead your loved ones to engage in litigation.

The attorneys at O'Neil, Cannon, Hollman, DeJong & Laing S.C. have experience with creating estate plans for "blended" families and with updating old estate plans to correspond with new circumstances. If you would like to discuss your estate planning options further, please contact attorneys [Carl D. Holborn](#), or [Kelly M. Spott](#).