Divorces over 50 roil estate planning

By Editorial Staff *Thu, Feb 13, 2020*

'Not communicating the estate plan with family members' is the most common cause of conflict (43%), followed by 'dealing with blended families' (29%), according to a TD Wealth survey.

“Gray divorce,” which refers to the increasing rate of divorce for those over 50 years old, along with prolonged life expectancy and rising healthcare costs, is having an impact on financial planning, specifically estate planning, according to TD Wealth, a unit of TD Bank.

A survey conducted by TD Wealth at the recent 54th Annual Heckerling Institute on Estate Planning found that 40% of respondents, comprised of estate planners and attorneys, said that gray divorce is causing a rise in family conflict, a significant challenge in estate planning. The institute is part of the University of Miami School of Law.

“Gray divorce is adding another layer of complexity to the estate planning process that already arises with blended families, designation of heirs and the ever-changing domestic structures,” said Ray Radigan, Head of Private Trust at TD Wealth, in a release.

Of those responding to the survey, 39% identified retirement planning and funding as a highly impacted factor of estate planning for those divorcing over the age of 50. Gray divorce is also having an impact on determining who will be responsible for enacting power of attorney, determining appropriate social security benefits, and drafting of a will.

The TD Wealth survey also found that “not communicating the estate plan with family members”” is the most common cause of conflict (43%), followed by dealing with blended families” (29%). Only 13% of respondents cited designation of beneficiaries as a cause for conflict in 2020, down from 30% a year ago.

For two consecutive years (2018 and 2019), the survey showed that family conflict was the leading threat to estate planning. In 2020, equal numbers of estate planners expressed concern over family conflict (25%); tax reform (25%); prolonged life expectancy and increased healthcare costs (25%).

A large share of estate planners said they are reconsidering the implementation of traditional strategies to work with the gift exemption under the Tax Cuts and Jobs Act, rather than treat it as an obstacle.

Thirty-nine percent (39%) of respondents suggest to clients to gift now when the exemption is high. However, 23% of respondents suggest advising clients to consider trusts to protect assets from future claims, and 20% suggest planning to minimize future capital gains tax consequences.

“Even though there is a higher exemption on gifting now, we are advising some clients to consider retaining more now because people are living longer, and those associated costs are impacting their estate plans,” Radigan said.

The total sample included 112 survey respondents who attended the 54th Annual Heckerling Institute on Estate Planning, including attorneys, trust officers, accountants, charitable giving professionals, insurance advisors, elder law specialists, wealth management professionals, educators and non-profit advisors. The survey was fielded January 13-14, 2020.

© 2020 RIJ Publishing LLC. All rights reserved.