



Trusts & Estates Newsletter

SPRING 2015

COMMUNITY PROPERTY: UNDERSTANDING THE BASICS

Pop quiz

One: Mickey and Martha have been married 20 years. Mickey wants to leave half their beach house to a friend from work. Can he do that?

Two: Martha's Will gives everything to her husband, but if he dies before her, she leaves \$100,000 to June, her daughter from a prior marriage. What does June get if Martha dies first?

Three: June inherited \$100,000 from her mother and puts it in a joint account with her husband. A week later, he files for divorce. Will June be able to preserve her inheritance?

Answers are at the end of this newsletter.

"Community property" is a simple but powerful legal principle that can have some unforeseen results if you're not familiar with the rules:

- **Earnings are shared.** Anything earned by a Washington couple during their marriage is community property and is co-owned by the two of them. So if one spouse stays home and one works, they both co-own the working spouse's income, as well as assets purchased with the income.
- **Each spouse owns half.** Generally speaking, each spouse can leave his or her half of the couple's assets to someone other than their spouse. So either spouse can bequeath half the couple's savings - including the family home - to anyone they want to in their Will. (But you can't give community property during your lifetime without your spouse's consent.)
- **Without a Will, the spouse gets all.** If a married couple does not have Wills, upon the first death, the survivor inherits all of the community property.
- **Stepchildren may be left out in the cold.** This can be a problem if the first spouse to die had children from a prior marriage. Without a Will or trust, that first spouse's half of the community property all goes to the surviving spouse. The survivor can leave it all to his or her own children (or to charity) - meaning the first spouse's children receive nothing.
- **Some property is separate.** Married people still can have separate property. Anything a spouse owned before marriage is separate property. An inheritance is separate property, regardless of when it's received. But when separate property is commingled with other assets, it can become community property. It can also be converted to community property through a Community Property Agreement.

The GTH Trusts & Estates Group provides individual and family estate planning to clients throughout the Puget Sound area. We strive to provide superior, personal service by preparing wills, trusts and other contingency-plan documents tailored to each client's unique needs. We also analyze and help to carry out lifetime personal planning arrangements, advise those administering estates, trusts and guardianships, and help to resolve disputes among heirs and with taxing authorities. Our group includes a Certified Elder Law Attorney, a former CPA, and a member of The American College of Trust and Estate Counsel.

QUESTIONS

To discuss any aspect of your estate planning, please contact the attorney with whom you work or any of the following members of our Trusts & Estates Group.

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Community Property continued...

- **Separate property might not go to the spouse.** Spouses can give or bequeath separate property as they please. Without a Will, half of the separate property would go to the surviving spouse, and half to the deceased spouse's children.
- **Tax bonus for community property.** A key benefit of community property is that after the first spouse's death, the value of all community property is "stepped up" to the value on the date of death. That means less would be owed for capital gains taxes.
- **New transplants aren't left out.** Washington laws make allowances for couples who move here after acquiring property in a non-community property state.
- **No common-law marriage.** There is no "common law marriage" in Washington. But couples who live together in a committed, intimate relationship may acquire some rights in each other's property.
- **These rules are different in divorce.** In the event of divorce, it's important to understand that the courts can award community property disproportionately. And can even award separate property of one spouse to the other in some instances.

"Community Property" is a legal concept that can lead to some unexpected results if couples don't plan well. We're happy to help if you have any questions about community property.

Answers to the **Pop Quiz**: **One**: Sure. **Two**: Nothing. **Three**: Maybe, but maybe not.

This newsletter is for informational purposes only and not for the purpose of providing legal advice or soliciting legal business. To receive future Trusts & Estates Newsletters electronically, please send your name and e-mail address to estates@gth-law.com. Past editions of this newsletter are available on our Web site at www.gth-law.com.