
splitting an inheritance

Posted by great1 - 2008/02/07 19:21

if one spouse receives an inheritance prior to their divorce, will the other spouse be entitled to part of the proceeds?
What if the spouse seeking part of the inheritance can prove that the other spouse committed waste of marital assets ?

Post edited by: great1, at: 2008/02/07 19:22

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Posted by Samantha - 2008/02/08 02:15

Which state is this for?

It really depends on state law. Many states that use equitable distribution rule (non community property states) say that inheritances are separate property as long as they are held outside the marital estate.

If your client has filed for divorce, I doubt s/he would commingle the \$. So, I'd venture to say the inheritance will not be considered marital property.

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Posted by Tia A. - 2008/02/08 18:21

just make sure that there is no commingling of the inheritance with marital assets.

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Posted by Samantha - 2008/02/10 12:32

the beneficiary can always "disclaim" their interest if they are worried about losing part of it to their spouse.

in order to disclaim, the beneficiary can not touch or benefit from the inheritance. The disclaimer must be filed with the probate court within 9 months of death.

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Posted by great1 - 2008/02/12 00:49

I appreciate all the responses. What about waste of marital assets by one spouse?
