

Attorneys**Partner**

- Eric B. Woldenberg

Associate

- Alan S. Laufer

Woldenberg, Asher and Laufer Author Legal Update On Amendment Of E.P.T.L. Section Relating To Divorces And Former Spouses

Effective as of July 7, 2008, the New York State Legislature amended Estates, Powers and Trusts Law (EPTL) Section 5-1.4 governing the effect of divorce on dispositions to a former spouse in a Will. Previously, the application of EPTL Section 5-1.4 was limited to dispositions and fiduciary appointments contained in a divorced individual's Will. The amendment to EPTL Section 5-1.4 broadens the list of applicable governing instruments to now include other documents and transactions, such as revocable living trusts, powers of attorney, and beneficiary designations.

Divorced individuals should understand that most dispositions to former spouses will be automatically revoked unless specifically "saved" by language in the governing instrument. These automatic revocations may result in incomplete beneficiary designations in a variety of documents. Accordingly, divorced individuals should now take the opportunity to identify and complete any incomplete instructions and designations remaining as a result of the application of new EPTL Section 5-1.4. Failure of divorced individuals to name new beneficiaries in certain instruments could lead to the client's "estate" being designated the default beneficiary. Consequently, assets that were once non-probate property because of spousal beneficiary designations may now require a probate proceeding. This means that estate plans that were once designed to avoid probate may now instead require probate to judicially construe missing fiduciary appointments as a result of the revocations under EPTL Section 5-1.4. Divorced individuals should be counseled to speak with their attorneys and ensure that their estate plans remain viable following divorce.

Trusts and Estates partners Eric Woldenberg and Jeffrey Asher and associate Alan Laufer have prepared a Legal Update entitled "New York Law Amended to Broaden Revocatory Effect of Divorce on Dispositions to Former Spouse and Nomination of Former Spouse as Fiduciary." To read the Legal Update, please [click here](#).