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Key Estate Planning Adjustments to Make After Your Spouse Passes Away

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The period after a spouse passes away is an emotional time of mourning. However, there are a handful of estate planning adjustments that you should make to protect your estate under the new conditions.

Consider Real Estate – Any property that your spouse had an ownership interest in at the time of death, whether titled in their name, individually, jointly with you, or in their living trust, is burdened with a federal and a state estate tax lien, causing a cloud on the title. The lien is released in one of two ways: by filing an estate tax return and obtaining a release from the taxing authorities, or by your signing an affidavit that the gross value of the estate did not necessitate the filing of an estate tax return. The release or affidavit, as the case may be, is recorded at the Registry of Deeds and then the lien is removed.

Consider Your Beneficiary Designations – To the extent that your spouse was named as a beneficiary of an asset, such as your retirement account or life insurance policy, update your beneficiaries.

Read Your Will, Trust, Power of Attorney, and Health Care Proxy, Etc. – Review your estate plan with your lawyer. You may have named your spouse in primary fiduciary roles across all the foregoing documents and now wish to name someone else in their place along with new alternate fiduciaries.

Inherited Retirement Accounts – If your spouse named you as the primary beneficiary of their retirement account, call the custodian to start the process of inheriting the account. You would then need to name new beneficiaries.

More on Inherited Retirement Accounts – If your spouse had been withdrawing an amount from their retirement account each year (referred to as a “required minimum distribution”) and, if at the time of death, no withdrawal was made for that year, a withdrawal must be made by December of that year. If not, the account is subject to penalties.

For assistance in making these estate planning adjustments, please contact your Bowditch attorney.

