S T A T E O F N E W Y O R K

9857

I N A S S E M B L Y

February 3, 2010

Introduced by M. of A. CARROZZA -- read once and referred to the Committee on Judiciary

AN ACT to amend the estates, powers and trusts law, in relation to credit shelter formula bequests after federal estate tax repeal and bequests of unused federal generation skipping transfer tax exemption after repeal

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Sections 2-1.13 and 2-1.14 of the estates, powers and trusts law are renumbered sections 2-1.15 and 2-1.16 and two new sections 2-1.13 and 2-1.14 are added to read as follows:

S 2-1.13 CREDIT SHELTER FORMULA BEQUESTS AFTER FEDERAL ESTATE TAX REPEAL

IF: (A) THE DECEDENT DIES: (1) AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND NINE; AND (2) AT A TIME WHEN THERE IS NO FEDERAL ESTATE TAX IN EFFECT; AND (3) IS SURVIVED BY A SPOUSE; AND

(B) BY REASON OF THE DEATH OF THE DECEDENT PROPERTY PASSES OR IS ACQUIRED FROM THE DECEDENT UNDER A WILL OR BENEFICIARY DESIGNATION EXECUTED OR TRUST CREATED PRIOR TO JANUARY FIRST, TWO THOUSAND TEN WHICH CONTAINS A FORMULA PROVIDING, IN SUM AND SUBSTANCE, FOR A BEQUEST OF THE MAXIMUM AMOUNT OF PROPERTY THAT CAN BE SHELTERED FROM FEDERAL ESTATE TAX BY REASONS OF CREDITS AGAINST SUCH TAX,

THEN SUCH FORMULA SHALL BE CONSTRUED UNDER THE INTERNAL REVENUE CODE OF 1986 AS IN EFFECT FOR DECEDENT'S DYING ON DECEMBER THIRTY-FIRST, TWO THOUSAND NINE.

FOR PURPOSES OF THIS SECTION, THE FEDERAL ESTATE TAX SHALL BE DEEMED IN EFFECT IF IT IS LEGALLY RESTORED RETROACTIVELY TO THE DATE OF DECEDENT'S DEATH.

S 2-1.14 BEQUESTS OF UNUSED FEDERAL GENERATION SKIPPING TRANSFER TAX EXEMPTION AFTER REPEAL

IF: (A) THE DECEDENT DIES: (1) AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND NINE; AND (2) AT A TIME WHEN THERE IS NO FEDERAL GENERAL SKIPPING TRANSFER TAX IN EFFECT; AND

(B) BY REASON OF THE DEATH OF THE DECEDENT PROPERTY PASSES OR IS ACQUIRED FROM THE DECEDENT UNDER A WILL OR BENEFICIARY DESIGNATION

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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EXECUTED OR TRUST CREATED PRIOR TO JANUARY FIRST, TWO THOUSAND TEN WHICH CONTAINS A BEQUEST, IN SUM AND SUBSTANCE, EQUAL TO THE DECEDENT'S UNUSED EXEMPTION FROM THE FEDERAL GENERATION SKIPPING TRANSFER TAX, THEN SUCH BEQUEST SHALL BE CONSTRUED UNDER THE INTERNAL REVENUE CODE OF 1986 AS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND NINE.

FOR PURPOSES OF THIS SECTION, THE FEDERAL GENERATION SKIPPING TRANSFER TAX SHALL BE DEEMED IN EFFECT IF IT IS LEGALLY RESTORED TO THE DATE OF DECEDENT'S DEATH.

S 2. This act shall take effect immediately.