STATE OF NEW YORK

1726

2023-2024 Regular Sessions

IN ASSEMBLY

January 20, 2023

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

AN ACT to amend the estates, powers and trusts law, in relation to providing a presumption that credit shelter bequests be construed to set aside the maximum amount that may be shielded from both federal and state estate taxes

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The estates, powers and trusts law is amended by adding a new section 2-1.12-a to read as follows:

§ 2-1.12-a Application of formula clause

(a) If: (i) a decedent who is a resident of New York state dies after March thirty-first, two thousand twenty-three; and

(ii) by reason of the death of such decedent, property passes or is acquired from such decedent under a will, a trust or a beneficiary designation which contains a formula providing, in sum or substance, for a bequest or other disposition of the maximum amount of property that can be sheltered from federal estate tax by reason of available credits against such tax; then, unless the governing instrument specifically provides otherwise by referring to this section, such formula shall be deemed to refer to the maximum amount of property, if any, that can be sheltered from both federal estate tax and New York state estate tax by reason of the applicable credit amount allowable against each of the federal estate tax liability and the New York state estate tax liability.

(b) Notwithstanding paragraph (a) of this section, nothing in this section shall be deemed to preclude a proceeding from being brought that seeks an order: (i) construing the decedent's intent concerning the effect of a formula bequest or other disposition contained in a will, trust or beneficiary designation, or

(ii) overriding the presumption set forth in subparagraph (ii) of paragraph (a) of this section.

§ 2. This act shall take effect immediately.

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

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