

Estate Planning – Out of State Real Estate

A significant change in Washington estate taxes occurred when the Washington Supreme Court struck down our prior estate tax. Now, our “snow birds” who own land in another state must decide on two issues.

First, as a Washington resident, there could be a significant financial impact determined by how you hold that land. If your land is an asset of a Family Limited Liability Company (“LLC”), Washington’s new law will result in an estate tax on the value of that home – but only to the extent of the decedent’s interest. For instance, if you own the home as 1/3 partners, then 1/6 of the value of your property will be taxed, in Washington, as an asset of your spouse’s estate.

If, however, you hold the property as an asset of a family living trust, you will not only escape probate in that other state – the home’s value will not cause you to owe Washington taxes.

Second, besides reconsidering how you hold that land, this may also be a good time to reconsider whether you are correctly claiming your state residency. For instance, if you are a resident in a state with an income tax to carry the debt loan, then the impact of the estate tax could be less. If, however, you remain a resident of Washington (with no income tax), the burden of taxes could fall more heavily on the value of decedents’ estates.