

Precious Metals Now Deemed Tangible Personal Property in Florida

July 1, 2020

Effective July 1, 2020, there is a new law in Florida (Section 731.1065 of the Florida Probate Code) that treats "precious metals in any tangible form, such as bullion or coins, kept and acquired for their historical, artistic, collectable, or investment value apart from their normal use as legal tender for payment, [as] tangible personal property."

Accordingly, unless such items are specifically addressed in a client's Will or Revocable Trust, regardless of the value of such items, the precious metals would pass to the beneficiary of the client's tangible personal property (which generally is disposed of outright) rather than to the beneficiary or beneficiaries of the client's residuary estate (which is generally held in a trust that should (1) be protected from creditors, (2) be treated as separate property if the beneficiary divorces, and (3) stay in the bloodline for multiple generations, and be excluded from transfer tax at every generation to the extent GST exemption has been allocated).

Individuals who own precious metals are encouraged to review their estate planning documents to ensure that either (1) such items are expressly addressed and directed to be distributed in a specific manner or (2) they are comfortable with such items being distributed by default to the beneficiary or beneficiaries of the tangible personal property. Individuals should be reminded that such items will not pass as part of their residuary estate.

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