

## **Pension Protection Act of 2006** **Non-Spouse Beneficiaries**

There are two major changes to the law under the Pension Protection Act of 2006 that may have an important impact on the estates of those in non-traditional committed relationships:

### **Non-Spousal Rollovers of Retirement Plan**

- Current law generally forces withdrawal of an inherited retirement plan by a non-spouse to be taken in a lump sum – with income taxes on the entire amount being owed at the time of the lump-sum withdrawal.

The new law, which is effective January 1, 2007, allows the following:

- Non-spouse beneficiary of a qualified retirement plan (401K, 403B, 457 plan) will be able to transfer funds from the inherited retirement plan to an inherited IRA.
- Allows non-spouse beneficiary to take the distributions from the inherited IRA over his or her lifetime, rather than as one lump-sum.
- Allows for the payment of income taxes to be spread over the beneficiary's lifetime, as distributions are taken.
- Must be a Trustee-to-Trustee transfer - non-spouse beneficiary should never take a direct distribution from an inherited retirement plan.
- Name of deceased owner must remain on the account – inherited IRA will be owned “Joe Smith IRA, deceased, for benefit of Mark Johnson.”

### **Withdrawal of Money for Hardship of Non-Spouse Beneficiary**

- Current law allows ‘hardship’ distributions from a retirement plan to the plan participant, spouse or dependant of the plan participant.
- New law will allow for the use of money for ‘hardship’ distributions from a retirement plan to a non-spouse beneficiary.
- Distributions are taxable, and may be subject to 10% early withdrawal penalty.