



FINANCIAL / TAX ADVICE

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VALENTINE'S DAY AND ENGAGEMENT RINGS

February is often considered a month of love because Valentine's Day falls on the 14th. That is the day when many couples are engaged to marry, often symbolized by the presentation of an engagement ring. No matter the size or value of the engagement ring, it is an important symbol of love between the parties. It can also be the most expensive piece of tangible personal property a couple might own. Unfortunately, many marriages do not last. In fact, many engagements do not result in weddings as many engagements are broken off. This raises the question, "Who gets the ring?" when the marriage terminates or if a marriage never occurs.

The law in this area is very State and fact specific. Some States base their law under a contract theory, requiring consideration on the part of the receiving party. Other States utilize a conditional gift theory, wherein the recipient is required to fulfil the terms necessary to complete the gift. For marriages that occur, States are generally uniform in finding that the recipient of the engagement ring is entitled to keep it. This result follows because the contract terms or the gift requirements have all been met. Nonetheless, in the event of marital dissolution, it is important to review State specific rules with respect to division of property and the marital estate.

But what about requiring a recipient to return an engagement ring when marriage never occurs? Here too, the States are split on the adoption of the conditional gift or contract theories. Florida has adopted the conditional gift theory in the first important case covering this circumstance, *Gill v Shively*, decided in 1975. Here the Court held that a donor may recover an engagement ring if the engagement was terminated by the donee or by mutual consent of the parties. The rationale is that in these circumstances, there was an implied condition that a marriage be consummated with such condition not having been satisfied. While one could argue, that this simple, easy to understand rule makes sense, it may prove troublesome if one enters into the engagement with a sinister intent to cause the fiancé to engage in a more intimate relationship, and the donee calls off the engagement for a seemingly good reason.

But for now, the general rule in Florida is that the ring is returned to the donor, unless that party terminated the engagement or otherwise acted in a fraudulent manner.

During this month of love, let's all hope for good things for ourselves and our families. Let's also send best wishes to those who choose Valentine's Day for their engagement with hopes that they marry and build successful futures together. Happy Valentine's Day to all.

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