

From the desk of Jeanne M. Kerkstra, Esq., CPA

**Viewpoint
Going, Going, Gone - The Toll of Wedding Bells**

Last week actress Ellen Barkin symbolically and financially closed a chapter in her life. Christie's, the auction house, sold 106 pieces of jewelry, including her wedding ring, which she received from her ex-husband Ron Perelman, billionaire Revlon magnate, during their 6-year marriage. The haul fetched a whopping \$20 million plus. The jewelry almost equaled her marriage settlement. Although she seemed to do well, her ex did better. When they got married, Ron was worth about \$3 billion. He was worth double that 6 years later. But Ellen didn't get half of the \$3 billion increase because she signed a prenup. (Contrast this with Paul McCartney's divorce ending a 4-year marriage in which there was no prenup. The press is reporting that his ex may walk away with about a quarter of a billion dollars).

Prenuptial agreements (a/k/a premarital agreements) are valid in all 50 states. Note that about 26 states, including Illinois, have a Uniform Premarital Agreement Act. See Illinois Premarital Agreement Act. The prenuptial agreement "cliffnotes" would have three important guidelines: Incomplete disclosure of net worth and income, 2.) separate and independent counsel, and 3.) adequate lead time before the wedding. Admit it: If you cannot have a frank and open discussion prior to marching down the aisle, most assuredly you won't be able to if the marriage ends badly and you are at each other's throats (and pocketbooks). Be aware that the right of a child to support may not be adversely affected by a prenuptial agreement.

Also, because celebs seem to have trouble paying Uncle Sam his share, we'd like to remind Ms. Barkin that pursuant to § 1041, she took Ron's basis in the gifts. Consequently, she'll have to pay tax on the appreciation. Her adjusted basis would have equaled FMV had she got them upon death (§1014), not divorce. But then that might have been a different story. We would have been looking to see if Ron's attorneys had done their job correctly and tied the prenup into Ron's estate plan (e.g., Wills and Trusts).

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