



## **California Pre/Post Marital Agreements July 2010 Update**

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### **Updated Product Features**

#### **New Independent Premarital Waiver of Disclosure Added**

You may now draft separate Waiver of Disclosure or Waiver of Further Disclosure documents. Although Family Code §1615 does not require that the waiver of disclosure be contained in a separate document, it has been reported to the authors that at least one trial court has invalidated a premarital agreement because the waiver of further disclosure was included in the body of the agreement. As of February 2010, at least one appeal is pending challenging this interpretation. While the authors do not agree with this interpretation, this form is provided out of an abundance of caution. *Questions 1 and New Question 3.*

#### **New Draft Premarital Agreement Exit Letter Added**

An new option to draft a Premarital Agreement Exit letter has been added. This is a generic letter that contains provisions which may (or may not) not apply to your client. It is recommended that you personalize it as appropriate. *Question 1 and New Questions 768-771.*

#### **Option Added to Specify Adult Children**

Where either party indicates the existence of other children, a new question has been added to allow for the identification of each child as an adult. When a child is specified as an adult, the date of birth and custodial arrangement questions are not asked. *New Questions 124 and 138.*

#### **Option Added to Further Define the Right of Reimbursement for Separate Property**

Regarding the reimbursement for separate property used to acquire or improve community or joint property, an option has been added to allow reference to reimbursement specifically in accordance with Fam. Code §2640(b). *Question 219.*

#### **Ownership in Family Residence Clarified**

Question 267 (Ownership of Residence) has been revised to include ownership in addition to increases in equity in order to cover situations where residences have decreased in value. Note that the question "tag" has been revised from "Increase in Equity" to "Ownership of Residence." Also, the choice "Equity increases until residence becomes CP" (available when 'Separate Property' has been selected at Question 255) has been revised to "CP ownership increases until residence becomes 100% CP." Law and Strategy has been updated to discussing the default language for this option. *Question 267.*

**New Options Added to for Family Residences Which Decrease in Value**

Because of the economy we can no longer assume that equity will continue to rise, even based upon principal pay down. Therefore, new variations of the Moore/Marsden formula have been added if equity or ownership in the family residence is to be allocated based on principal payments. New Law and Strategy provides detail on these formulas. *New Question 268-270.*

**New Options Added to Payment of Expenses for the Family Residence**

A new option "From community without reimbursement" will allow the owner spouse to use community property to make capital improvements, major repairs, and to cover other expenses associated with the residence. However, in doing so, the community will not gain interest or right of reimbursement in the residence. Another new option "From community with community acquiring an interest" has been added to the "Other Expenses" question. New Law and Strategy provides further detail regarding these options. *Questions 290, 296 and 301.*

**New Questions Permit Limits to be Placed on the Value of Jewelry and Personal Effects**

Under Character of Property, new "Gifts Between Parties" questions have been added to ask whether limitations should be set on the value of jewelry or personal effects that can be transferred between parties without a written document satisfying Fam. Code §852. New Law and Strategy discusses the imposition of limits in greater detail. *New Questions 430 and 431.*

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To view those questions that are new in this update, or where **Law & Strategy**, choices, or default answers have changed, use the "**Up\_Jul10**" flag file. From inside Lawgic, open any existing answer file; on the **Flags** menu, click **Open Flags**, select the appropriate Title (click **OK**), and next select the "**Up\_Jul10**" flag file (and click **OK**). To view all flagged questions, click **Expand All** on the **Answers** menu and scroll the Navigator. Flagged questions will be indicated with **bold text**.

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