§2-705. Class gifts construed to accord with intestate succession; exceptions

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Distribution date" means the date when an immediate or postponed class gift takes effect in possession or enjoyment. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. "Relative" means a grandparent or the descendant of a grandparent. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Terms of relationship. A class gift that uses a term of relationship to identify the class members includes in the class a child of parents regardless of their martial status, and their respective descendants if appropriate to the class, in accordance with the rules for intestate succession regarding parent-child relationships.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Relatives by marriage. Terms of relationship in a governing instrument that do not differentiate relationships by parentage, including relatives of parents, from those by marriage, such as uncles, aunts, nieces or nephews, are construed to exclude relatives by marriage, unless:

A. When the governing instrument was executed, the class was then and foreseeably would be empty; or [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. The language or circumstances otherwise establish that relatives by marriage were intended to be included. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Relatives of shared parentage. Terms of relationship in a governing instrument that do not differentiate relationships by whether all parents are shared, such as brothers, sisters, nieces or nephews, are construed to include all types of relationships regardless of whether relatives share all parents.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B`, §14 (AFF).]

5. Transferor not parent. In construing a dispositive provision of a transferor who is not the parent, the transferor or a relative of the transferor must have established a parent-child relationship with the child before the child reached 18 years of age.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

6. Class-closing rules. The following provisions apply for purposes of the class-closing rules.

A. A child in utero at a particular time is treated as living at that time if the child lives 120 hours after birth. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. If the distribution date is the date of the deceased parent's death, a child in utero not later than 36 months after the deceased parent's death or born not later than 45 months after the deceased parent's death is treated as living at that time if the child lives 120 hours after birth. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. An individual who is in the process of being adopted when the class closes is treated as a child of the parent when the class closes if the adoption is subsequently granted. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

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