

NEVER TOO LATE: WILLS, TRUSTS AND THE ART OF WEALTH TRANSFER FOR THE YOUNG AT HEART

porterwright



ESTATE PLANNING TOOL KIT

- WILLS
- REVOCABLE TRUSTS
- JOINT OWNERSHIP
- BENEFICIARY DESIGNATIONS
- IRREVOCABLE TRUSTS
- FAMILY BUSINESS ENTITIES





WILLS

ADVANTAGES OF WILLS

- Avoids intestacy
- Can benefit anyone of your choice
- Can place conditions on gifts
- Names a personal representative
- Allows you to determine the PR's powers
- Can be changed during lifetime



DISADVANTAGES OF WILLS

- Must be filed with the Clerk of the Court
- Requires probate administration
- Information can become public
- Personal representative must be a Florida resident or a close relative





TRUSTS

ADVANTAGES OF REVOCABLE TRUSTS

- Avoids intestacy
- Can benefit anyone of your choice
- Can place conditions on gifts
- Names a Trustee
- Can expand or limit Trustee powers
- Avoids or minimizes need for probate and guardianship
- Can be changed during lifetime
- Not treated as a separate taxable entity

DISADVANTAGES OF REVOCABLE TRUSTS

- Must be funded during lifetime to be of benefit
- You still need a Will
- Does NOT avoid estate taxes
- No judicial supervision of the Trustee



JOINT OWNERSHIP

TYPES OF JOINT OWNERSHIP

- Tenancies in common
- Joint tenancy with rights of survivorship
- Tenancy by the entirety



ADVANTAGES OF JOINT OWNERSHIP

- Avoids intestacy and probate
- Can create joint ownership with anyone of your choice
- Generally inexpensive to create
- Can be established when taking title to property
- Easy to administer upon death



DISADVANTAGES OF JOINT OWNERSHIP

- Not easy to change
- All owners are responsible
- No one owner can act alone
- Difficult to place conditions
- Costly if there are disagreements





BENEFICIARY DESIGNATIONS

PROPERTY THAT CAN BE BENEFICIARY DESIGNATED

- Life insurance
- Retirement benefits
- Bank or investment accounts

ADVANTAGES OF BENEFICIARY DESIGNATIONS

- Avoids intestacy and probate
- Designate a beneficiary of your choice
- Generally inexpensive to create
- Easy to change
- Can and should be established when creating the account or policy
- Easy to administer upon death

DISADVANTAGES OF BENEFICIARY DESIGNATIONS

- Difficult to place conditions on the gift
- Must be received and processed by the custodian
- Must be maintained by the custodian
- For ERISA benefits, may require spousal consent
- Qualified benefits may be subject to other requirements



IRREVOCABLE TRUSTS

ADVANTAGES OF IRREVOCABLE TRUSTS

- Avoids intestacy and probate
- Can benefit anyone of your choice
- Can place conditions on gifts
- Names a Trustee
- Can expand or limit Trustee powers
- Can be used for tax planning

DISADVANTAGES OF TRUSTS

- Must be funded during lifetime to be of benefit
- You generally cannot retain any benefit or access funds
- Cumbersome to make changes
- Trustee has statutory responsibilities and duties
- Often separate taxable entities
- May have associated ongoing expenses



FAMILY BUSINESS ENTITIES

TYPES OF FAMILY BUSINESS ENTITIES

- Family limited partnerships
- Limited liability companies
- Family corporations
- Family trust companies

ADVANTAGES OF FAMILY BUSINESS ENTITIES

- Older family members can give economic interests to younger members while retaining control
- Can protect family members from third parties, creditors
- Keeps assets within the family
- Can create clear guidelines for management of property
- Can give family members options to purchase or sell
- Can be used for tax planning



DISADVANTAGES OF FAMILY BUSINESS ENTITIES

- Complex structures; expensive to create and maintain
- Must be registered with the state
- Requires proper documentation and must be managed according to formalities
- Cumbersome to make changes
- Managers and officers have responsibilities and duties to members

THANK YOU!



Marve Ann M. Alaimo, Esq.
Porter Wright Morris & Arthur LLP
malaimo@porterwright.com
239.593.2964

Kinsha'sha Sharp, Esq.
K.B. Sharp, PA
ksharp@kbsharppalaw.com
954.380.8990

DISCLAIMER

Porter Wright Morris & Arthur LLP offers these materials for general information purposes only. The content of these materials is not intended as legal advice for any purpose, and you should not consider it as such advice or as legal opinion on any matters. This content does not necessarily reflect the views of the firm as to any particular matter or those of its clients.

The information provided herein is subject to change without notice, and you may not rely upon any such information with regard to a particular matter or set of facts. Further, the use of these materials does not create, and is not intended to create, any attorney-client relationship between you and Porter Wright Morris & Arthur LLP or any individual lawyer in the firm. Use of these materials is at your own risk, and the materials are provided without warranty of any kind. We make no warranties of any kind regarding the accuracy or completeness of any information in these materials, and we make no representations regarding whether such information is reliable, up-to-date, or applicable to any particular situation. Porter Wright Morris & Arthur LLP expressly disclaims all liability for actions taken or not taken based on any or all of the contents of materials, or for any damages resulting from your viewing and use thereof.

