

Estates, Trusts and Probate

Overview

On behalf of our estate planning clients we:

- Analyze potential estate, gift, generation-skipping, and income taxes.
- Determine liquidity needs to provide for family and pay taxes.
- Analyze whether to restructure ownership of various assets to save taxes, provide for optimal allocation of business interests among family members, reduce potential probate administration expenses, or limit exposure to future liability.
- Analyze the feasibility and tax consequences of gift programs.
- Review pension plans, profit-sharing plans, IRAs, or other retirement plans or deferred benefits.
- Coordinate estate plans with the beneficiary designations of life insurance, retirement plans, or deferred benefits.
- Determine the preferred ownership entity for client's business during client's lifetime.
- Develop plan to continue or sell client's business after client's death by means such as corporate redemptions, cross purchase agreements, ESOPs, or corporate or partnership reorganizations.
- Plan for any special family needs (e.g., a disabled child's care, a second marriage or pending divorce, or passing a family business to some, but not all, children).
- Analyze charitable gift programs.
- Help clients determine who should act as personal representative, trustee, or guardian, and implement various aspects of the estate plan.
- Collaborate with client to develop an estate plan that meets client objectives.
- Prepare wills, trusts, powers of attorney, living wills, irrevocable trusts, health care directives, and other documents needed to implement the plan.
- Assist clients in the formation of directed trusts and silent trusts.

Estate and Trust Administration

In connection with the administration of estates and ancillary estates, we represent the interests of the estate or beneficiary in contests or disputes; advise family members, beneficiaries, and fiduciaries regarding their rights and obligations; ensure preservation of the property of the estate or trust; and help marshal, preserve, and value all assets. We administer both testamentary trusts and trusts under specific trust agreements. Our attorneys may also prepare any necessary tax returns for the trusts and any probate accounts.

On behalf of our trust and estate administration clients, we:

- Prepare all probate court filings and handle all probate court proceedings for testate or intestate estates.
- Handle post-mortem tax and other planning.
- Prepare and settle fiduciary accounts.
- Analyze tax reduction steps, accomplish other objectives (e.g., with disclaimers), and otherwise coordinate the tax and business planning for the estate with the family's tax and business planning.
- Prepare federal estate tax returns (or work closely with the accountant, corporate fiduciary, or other preparer).
- Analyze issues concerning valuation of assets.
- Handle any IRS tax audit, and negotiate any proposed tax deficiency.
- File Tax Court petitions, or conduct further litigation if agreement cannot be reached with the IRS.
- Prepare decedent's final income tax return, and any income tax returns for the estate (or work with other tax preparer as described above).
- Handle any audits of the returns.
- Deal with all aspects of any business that may be an asset of the estate; this includes negotiating buy-sell agreements and handling real estate, corporate, tax and related issues.
- Arrange to distribute assets or establish trusts in accordance with the estate plan.

Trust, Estate, and Guardianship Litigation

We bring a multidisciplinary approach to trust, estate, and guardianship matters, which can involve a broad range of topics and practice areas. Our team includes attorneys who specialize in, for example, bankruptcy, real estate, corporate, tax, and employment, allowing us to provide complete representation under even the most unusual or complex set of circumstances.

Our trust, estate, and guardianship litigation practice handles both large, complicated cases and smaller matters, including:

- Contested wills and trusts
- Disputes over construction of wills or trust agreements
- Modification or reformation proceedings
- Creditors' matters
- Disputes stemming from the administration of an estate or trust that may include elective share proceedings, and estate and trust accountings
- Homestead proceedings
- Compensation disputes
- Fiduciary removal
- Surcharge claims

Representative Trust, Estate, and Guardianship Litigation Services

- Pre-litigation fact review, including accountings, advice, and strategic plan
- Pleadings preparation
- Pretrial document discovery and depositions
- Ongoing strategic and tactical planning
- Mediation and other alternative dispute resolution methods
- Motion preparation and argument
- Trials or hearings
- Appeals

- Trust and estate administration

We offer individuals and corporate fiduciaries legal and tax advice on both the death of an individual and throughout an estate or trust administration. Our services encompass both state probate proceedings and federal estate taxation. We help fiduciary clients avoid problems, and complete their responsibilities in the most tax-efficient and economical manner while fulfilling the terms of the governing document.

Charitable Giving

We represent donors and donees regarding charitable giving. For potential donors, we analyze the tax and non-tax aspects of various alternatives to determine the best giving plan. We prepare all documents to effectuate the gift, whether it is an outright charitable bequest or a more complicated gift such as a charitable remainder annuity trust, a charitable lead trust, or a private foundation.

Representative services for charities and other public and private tax-exempt organizations:

- Preparing and filing organizational documents
- Securing exemption determinations from the IRS
- Filing appropriate state registrations and license applications
- Preparing tax returns and reports

Experience

- Counsel for national construction contractor in connection with more than \$100 million in claims relating to Central Florida convention center project
- Counsel for subcontractor defending \$85 million claim for failure of phosphate reservoir
- Represent international airport authority on construction and insurance issues for multi-billion-dollar airport expansion
- Counsel for homebuilder in class action relating to \$200 million in hurricane claims involving more than 8,000 homeowners
- Counsel for homebuilder in class action, involving site-related claims by 118 homeowners seeking more than \$10 million in damages

- Represented contractors and homebuilders in connection with Chinese drywall claims exceeding \$300 million
- Represented contractor in connection with \$120 million in claims arising from luxury hotel construction
- Represented contractor in connection with claims relating to a \$200 million-plus resort in Dade County, Florida
- Defended lead designer of space shuttle launching facility at Cape Canaveral
- Represented lead designer of \$70 million highway expansion project in Central Florida
- Defended class action alleging underground storage tanks leaked due to construction defects; Class certification denied
- Represented government entity on a \$75-million claim arising from termination of a contractor on a waste water treatment plant; Matter involved untimely performance of defective work/delay, latent defects, bid irregularities, design defects, 255 bonds, interpretation of bid documents, plans and specifications, and errors and omissions
- Represented government entity on a delay and construction defects claim against a paving contractor on a multi-million dollar road construction project
- Represented government entity on a multi-million dollar claim against a general contractor for defective construction and delays arising from the construction of a water treatment plant
- Represented regional airport authority on multiple matters, including advice during construction and representation in litigation
- Represented county on multi-million dollar claim against design professional for defective design and contract administration arising from the construction of a water treatment plant
- Represented county school district on a delay and defective construction claim against a general contractor arising from the multi-million-dollar high school renovation.
- Represented construction company against numerous subcontractors involving numerous related cases arising out of hotel construction for major Orlando theme park
- Represented construction company suing for wrongful termination of a subcontract on a construction project for a public university
- Defended two separate lawsuits by a general contractor against subcontractor payment and performance bond sureties for defective construction, latent defects, and delay damages arising out of a luxury condominium

- Defended a suit against a subcontractor's performance bond for latent water damage in a condominium project
- Defended an architect against allegations of negligent design and project administration involving a commercial office and warehouse
- Defended numerous payment and performance bond claims by community schools involving school construction
- Defended general contractor's performance bond surety for mold and water damage to a county sheriff's building
- Represented bleacher designer, manufacturer, and installer in dispute where claims exceeded \$14 million and involved a 75,000-seat super motor speedway; Action also involved suing engineer and foundation designer for design defects
- Represented general contractor for breach of contract and delay damages, involving a claim that exceeded \$2 million
- Represented national heavy highway contractor against an engineering firm regarding supply of inaccurate soil data
- Represented site contractor against developer for delay damages
- Represented subcontractor against delay claim alleged by major theme park and general contractor
- Represented county on multiple construction matters arising from defective construction, design, or delay
- Represented numerous condominium associations on claims against developers, contractors, and designers arising from defective construction

Insights

08.09.2022

IRS Extends Late Portability Election, Gives Tax Benefit to Estates

12.16.2016

Update Beneficiary Designations After Divorce or Annulment

01.30.2016

The Older Floridians Handbook

01.22.2016

Florida Appellate Court Finds Widow Could Independently Bring FCRA Discrimination Claim After Her Husband's Death

08.31.2015

Domestic Partnership Agreements: FAQs

08.24.2015

Domestic Partnership Agreements: Financial Disclosures and Privacy

08.17.2015

Domestic Partnership Agreements: Survivor's Rights on Death

08.10.2015

Domestic Partnership Agreements: Support upon Termination of the Relationship

08.03.2015

Domestic Partnership Agreements: Separate Property and Jointly Acquired Property

07.27.2015

Domestic Partnership Agreements: The Home and Joint Expenses

07.20.2015

Domestic Partnership Agreements: Overview

06.09.2015

Expansion of Fiduciary Duties Will Impact Florida LLCs – Is it Time to Update Your Operating Agreement?

11.18.2014

Smaller Estates of 2011, 2012 and 2013 Decedents Can Submit "Late" Portability Filings

07.02.2014

Eleventh Circuit Reverses District Court on Application of Noneconomic Damages Cap

09.05.2013

Treasury and IRS Provide Guidance for Same-Sex Married Couples

06.04.2013

Equity-Based Awards and Equity-Based Compensation

05.02.2013

Planning for the Affordable Care Act's Net Investment Income Tax

03.21.2012

Tax Alert: Administration's Proposal Regarding Grantor Trusts

02.16.2012

Tax Alert: Administration's Proposed Tax on Dynasty Trusts

01.04.2012

Equity-Based Awards and Equity-Based Compensation

11.14.2011

Rumored Reduction of \$5 Million Federal Gift Tax Exemption to \$1 Million

08.01.2009

Using Transit to Improve the Project's Connectivity and the Bottom Line

11.03.2008

"I Must Dissent." Why?

Our Team

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Related Practices

- Banking, Commercial, and Consumer Finance
- Health Care
- Employee Benefits, Compensation & ERISA
- Family Law
- Nonprofit Organizations
- Tax
- International Tax

- Business Transactions
- Litigation and Trials
- International

Related Industries

- Banking, Commercial, and Consumer Finance
- Health Care