



Welcome to the April edition of our newsletter. As part of our commitment to making trust plans work, Johnson, Gasink & Baxter, LLP transfers timeshares into trusts all over Virginia. We are happy to prepare timeshare deeds both for existing clients and for anyone who needs help funding their trust.

Should I Put My Timeshare Into My Trust?

By Dan Gasink

Many of our clients ask whether they should transfer their timeshare to their revocable trusts. Some practitioners recommend ignoring timeshares because their value is small. Others recommend transferring all timeshares to a trust. JGB recommends that each client decide how to handle his or her timeshare based on each unique situation.

Timeshare titles come in two forms: the most common is a recorded deed, and the second is a contract-based agreement. The deed-based title system is the most common and makes for a more difficult decision. A contract-based timeshare should be assigned to a revocable trust because the transfer can be done quickly and cheaply.

Most timeshares are transferred by recorded land interests which require a formal deed. This has two serious consequences: 1) any transfer must be made through another recorded deed and 2) the land interest must be probated in the county in which it sits. Preparing a formal deed requires a lawyer's help, which makes moving a timeshare into a trust more expensive than moving an asset like a stock or bank account. Thus said, the attorneys of JGB routinely transfer timeshares to revocable trusts at our standard deed rates to help clients avoid the costs of probating the timeshares at death.

Upcoming Seminars

Please attend our upcoming seminars – Better still, invite a friend!

JGB offers classes on Estate Planning, teaching and answering questions on topics including will, trusts, powers of attorney, incapacity planning, guardianship, probate, and trust administration.

Attendance is free; you will receive a wealth of information.

For dates and registration info, please see:

<http://www.jgbllp.com/workshop-registration.htm>



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Ancillary Probate

Timeshares, like all land interests, must be probated in the county in which the land sits. This means that a Virginia timeshare must be probated in Virginia regardless of a decedent's residence. Further, an estate with six timeshares would face separate probates, called 'ancillary probates,' in each of the six counties. The same is true of an estate which owns timeshares in multiple states. Most states have an expedited probate system for low-value property, but the family will pay for legal advice in each jurisdiction to learn even the expedited processes.

What do I do with my timeshare?

You have four options for how to handle your timeshare in your estate plan: you can **sell** it, you can **give** it away, you can **transfer it to your trust**, or you can **die with the timeshare still in your name**. Selling the property can be more difficult than expected. Even before the recession, there were generally more willing sellers than buyers of used timeshares. You may give the timeshare away, but the recipient needs to accept the gift (most charities will not accept timeshares) and be aware of the maintenance fees (this can cause problems with inter-family transfers).

The remaining two choices are to die with the timeshare in your name, and subject the estate to probate proceedings, or to transfer the timeshare to your revocable living trust. Your Trust Plan includes a will which will pick up any non-funded assets at your death and make them 'pour over' to your Trust. Going through ancillary probate is not the end of the world, it just adds a layer of complexity and expense to the wind-up of your affairs after death.

We are grateful for the positive feedback readers have given us.

The kindest compliment you can offer is to refer your friends, family, and colleagues to us for their will, trust, estate, and business law needs.

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When should I transfer my timeshare to my Trust?

If you plan to own your timeshare beyond the foreseeable future, you should transfer it into your trust. The costs of transfer in life are usually less than the cost of probate at death. Trust administration at your death is also much simpler for the family than probate. Like all property in your trust, you can still sell the timeshare or give it away later. The only reason not to transfer the interest is to avoid the immediate cost of the deed preparation and recording. In cases where you think it probable or even likely that you will die while still owning the timeshare it is cheaper and easier for you to transfer the timeshare to your existing trust in life than to leave it for your heirs and executors to clean up later.

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or to unsubscribe,
please e-mail Lauren at lkn@williamsburgtrusts.com*

JGB is proud to announce that we are sponsoring a Running Team for the 2010 RED WHITE & BLUE 5K organized by the Greater Williamsburg Chamber & Tourism Alliance.

May 15 (Race starts 8:30 am)

We have five open spaces on our team left. If you would like to run in this 5K for a great cause as a member of Team JGB, please contact Jeremy at 220-9800 or [jcyj@williamsburgtrusts.com](mailto:jcj@williamsburgtrusts.com).

These five open team spots will be allocated on a first come, first serve basis.

Members of Team JGB will have their registration fees covered by JGB and will receive a Team JGB shirt for participating in the 5K.

COME JOIN US IN THIS FUN-FILLED SALUTE TO OUR MILITARY!

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