



Legal Note – Tenancy by the Entirety

Tenancy by the Entirety (“TBE”) is one of three forms of joint property ownership and may serve as a simple means of asset protection. TBE is, however, available only to married couples. TBE provides significant legal protection not available to tenants in common or joint tenants (the other two forms of joint ownership). As long as the marital “entireties” of TBE are maintained, each spouse is legally deemed to own the entire TBE property. Excluding the IRS, a creditor of only one spouse may not generally reach property held TBE.

Florida permits both personal property and real property to be held TBE. The Florida courts also recognize a presumption that real estate purchased by a married couple is held TBE. Contrary to several other states, personal property (with the possible exception of bank accounts) held by Floridians, is however, not generally presumed as held TBE.

Couples intending to benefit from TBE status should therefore ensure that all accounts and valuable personal property is titled as Tenants by the Entirety. Bank and investment house statements and account applications should reflect the account holder as husband and wife “TBE.” Moreover, couples intending to benefit from the protections afforded TBE assets should avoid joint obligations arising from joint guarantees and ownership of active assets (such as automobiles and certain active businesses).