



Your Vehicles and Your Estate Plan: Title Transfer without Probate

The automobile is the life blood of the American economy and makes our day-to-day life possible. In Southwest Florida, vehicle ownership is not limited to automobiles as many residents also own a boat or other titled vessel. Since these assets are so widely owned, I am often asked "What happens to the vehicle after I pass away?" and "What is the best way to title my vehicle?" I will address both of these questions in this newsletter.

The transfer of a motor vehicle after death is largely governed by Section 319.28, Florida Statutes. When a vehicle owner passes away, a beneficiary or personal representative must apply for a new title certificate with the Department of Highway Safety and Motor Vehicles. If the decedent died with a will, a copy of the will must accompany the application. Depending on whether the will has been admitted into probate, either a certified copy from the probate court or a sworn copy is required.

If the decedent died intestate, that is, without a will, it is not necessary to present a court order along with a title transfer application at the tax collector's office. Instead, the applicant must sign an affidavit that the estate is not indebted and that the surviving spouse and heirs have agreed on the distribution of the estate. A surviving spouse may transfer the vehicle to a buyer or beneficiary without titling the vehicle first in the spouse's name.

The treatment of vehicles in a probate proceeding raises a couple of additional issues. The personal representative may wish to claim up to two of the decedent's automobiles exempt from the claims of creditors. The insurance policies on the vehicles should be closely examined to determine who is protected and whether the policy terminated at the death of the decedent. A vehicle usually is a depreciating asset so a personal representative may wish to distribute the automobile from the estate as soon as reasonably possible to avoid waste. A personal



Fletcher H. Rush

TEL 941.484.1996

EMAIL frush@farr.com

Fletcher practices in the areas of wills, estate planning, trust administration and tax planning.

Our Practice Areas

- Asset Protection
- Business & Corporate
- Elder Law
- Guardianship
- Litigation
- Marital & Family
- Mediation
- Personal Injury & Wrongful Death
- Physician Services
- Real Estate & Title Insurance
- Trusts & Estates

Follow us:



Farr.com

To subscribe to our newsletters, please visit our website.



representative should keep in mind that a vehicle is considered a “dangerous instrumentality” which presents a liability risk to the estate and also requires insurance while it is held in the estate.

Boats and vessels also have a certificate of title which is issued by the Department of Motor Vehicles, and the Florida statutes have similar provisions regarding the title transfer of a automobile and a vessel after the death of the owner. However, vessels which are registered with the United States Coast Guard require additional documentation in order to allow the new owner to re-register the vessel with the Coast Guard.

The ownership and transfer of vehicles raises several considerations which should be addressed. Those individuals who have a revocable trust may wish to transfer their automobile into the trust. However, transferring a vehicle into trust may result in more expensive insurance premiums. One alternative to trust ownership of a vehicle may be joint ownership of the vehicle. Careful consideration should be given to liability concerns for all co-owners of a vehicle before it is retitled in joint names.

If you have questions about your estate plan, the ownership of vehicles and other assets, or the administration of an estate or trust, you should consult your estate planning and probate attorney.

Farr Law Firm since 1924

Since 1924, the Farr Law Firm has held to our history and tradition of dedication to our community while working with clients to resolve disputes, solve complex problems, realize new opportunities, preserve and protect wealth and maximize growth in changing environments.

Farr Law Firm has been recognized as one of “Florida’s Top Ranked Law Firms” for 2015 by LexisNexis® Martindale-Hubbell®. We may be able to help you or your business. Call our office at 941.639.1158, or visit us on the web at www.farr.com.



This newsletter is for general information and education purposes only. It is not offered as legal advice or legal opinion.

To the extent this message contains tax advice, the U.S. Treasury Department requires us to inform you that any advice in this letter is not intended or written by our firm to be used, and cannot be used by any taxpayer, for the purpose of avoiding any penalties that may be imposed under the Internal Revenue Code. Advice from our firm relating to Federal tax matters may not be used in promoting, marketing or recommending any entity, investment plan or arrangement to any taxpayer.

Follow us:



Farr.com

To subscribe to our newsletters, please visit our website.