

Joint ownership of assets

Adding a joint owner to an asset owned by one person can avoid probate fees on the death of that person. The asset passes directly to that surviving joint owner on the death of the first person (by will/estate, thereby avoiding probate fees. Presumably, the value of the person's estate subject to probate fees (on other assets). Generally this planning is used with real estate, but is available for other types of assets.

There are a number of implications that must be considered in estate planning.

First, the Courts (see FN1) will rely on the "presumption of advancement" where the ownership of the property are not evident. Presumption of advancement means the surviving joint owner is holding the asset in trust for the first person's estate. The onus is on the surviving joint owner to rebut the presumption of advancement presumes that the asset is for the surviving joint owner. The presumption of advancement arises amongst spouses or from parent(s) into joint ownership.

Second, the person transferring a beneficial interest in an asset should be aware of the income tax rules deeming