



WHY THEY FLY FROM ILLINOIS -PART DEUX-



“Be our guest! Be our guest! Put our service to the test.”

Lumiere, Beauty and The Beast

Illinois residents continue to flee as the crime, grime and taxes grow ever more burdensome. The Land of Lincoln lost almost 130,000 residents in 2021, its eighth straight year of decline. The dream destination for many? Florida.

The Sunshine State has long offered low taxes, warm weather, and some of the best beaches in the world. Now, there is another significant reason to consider Florida. As of July 1, 2021, Florida allows for Community Property Trusts.

For financially successful married couples, this new law could be a major boon. Florida is one of only a handful of states to offer this enticing tax-saving legislation. Consider the following:

When a spouse dies, the tax basis of his or her assets ‘steps up’ to fair market value. Say Fred wisely bought Apple stock long ago for \$1 a share. Fred dies of shock when the stock hits \$180 per share. Under current tax law, his wife, Wilma, can sell the shares and pay no capital gains taxes. (She also avoids paying the 3.8% federal healthcare tax.) That’s because the tax basis of those shares steps up from \$1 a share to \$180 a share at Fred’s death.

But what if Wilma is the spouse who dies? In most states, shares held in Fred’s name get no step up in basis. What if Fred and Wilma own the Apple shares together? (That’s typically known as joint tenants with rights of survivorship.) Then, the tax basis of half the shares would step up.

Florida is sweetening the deal significantly. With a Florida Community Property Trust, all the Apple stock would step up to full fair market value at the death of the first spouse. Fred and Wilma’s heirs also could enjoy another step up in tax basis when the second spouse dies!

Florida’s new law could mean tremendous tax savings. Farmland, cryptocurrency, depreciated office buildings, shares in closely-held businesses, and marketable securities: all of these could qualify for a full step up in tax basis at the death of each spouse.

Who would benefit most from such a trust? That would be married Floridians with an estate plan in which most assets go to the surviving spouse. This new trust is particularly beneficial for clients who also have – or hope to have – significant appreciation of their assets. (In theory, this new law might be open to residents of other states if they name a trustee who lives in Florida. Be forewarned, though, the IRS might frown on that.)

There are some noteworthy risks to a Community Property Trust in Florida. One is the possibility of a “step down” in tax basis for assets that have fallen in value; that’s rare but it could prove very costly. Also, once again, some federal lawmakers are trying to do away with the step up in tax basis, a perennial effort that looks unlikely to pass.

Still, a Community Property Trust is well worth considering. Florida is offering the wealthy a very warm welcome with this new law.



Consider yourself invited.