

TAX AND WEALTH ADVISOR ALERT: POWERS OF APPOINTMENT - A TOOL TO ADD FLEXIBILITY INTO AN ESTATE PLAN

A power of appointment is a legal instrument that grants an individual (the “appointee”) the authority to decide how a particular asset or assets will be distributed upon the death of the individual who created the power (the “donor”). The appointee can exercise this power during their lifetime or in their will, and they can direct the asset to be given to any person or entity they choose.

When selecting the type of power of appointment to include in an estate plan, the donor generally has two options: 1) a general power of appointment, or 2) a limited power of appointment.

A general power of appointment allows the appointee to direct the asset to an entity or individual of their choosing without restriction. In contrast, a limited power of appointment restricts the appointee’s choices to a specific group of people or entities.

Powers of appointment can be useful in estate planning for several reasons. First, they provide flexibility in the distribution of assets. The donor can create a power of appointment that allows the appointee to redirect the asset if the original beneficiary is unable to receive it for any reason, such as if they pass away before the donor or if they disclaim their inheritance.

Second, powers of appointment can be used to address changes in circumstances that occur after the estate plan is created. For example, if the donor’s family circumstances change, they can create a power of appointment that allows the appointee to redirect the asset to a different family member or to a charitable organization.

Third, powers of appointment can be used to minimize taxes. By creating a power of appointment, the donor can direct the asset to be distributed in a way that minimizes the tax burden on their estate and the estate of the ultimate beneficiary.

In conclusion, powers of appointment can be a useful tool in estate planning. They provide flexibility, allow for changes in circumstances, and can minimize taxes. However, it is important to work with a qualified estate planning attorney to ensure that powers of appointment are created and implemented correctly to achieve the intended goals.

ATTORNEY SETH DIZARD TO RECEIVE 2023 JUDGE DALE E. IHLENFELDT BANKRUPTCY AWARD

The Eastern District of Wisconsin Bar Association announced that attorney Seth Dizard has been selected as the recipient of the 2023 Judge Dale E. Ihlenfeldt Bankruptcy Award. This honor will be presented to Dizard during the EDWBA's annual meeting May 25 at Saint Kate – The Arts Hotel.

The Judge Dale E. Ihlenfeldt Bankruptcy Award recognizes individuals who have demonstrated outstanding work in the practice of bankruptcy and insolvency law in the Eastern District of Wisconsin.

To learn more about how Dizard and O'Neil Cannon can assist you or your business, please visit our [Banking, Receivership and Creditors' Rights](#) page or contact us at 414-276-5000.

ESTATE PLANNING ATTORNEY ERIC PETERSON JOINS O'NEIL CANNON

Attorney Eric Peterson, a 2016 graduate of Marquette University Law School, has joined O'Neil Cannon. He is a member of the firm's Estate and Succession Planning Practice Group, where he will assist clients in all matters relating to estate planning, succession planning, and trust administration. Eric's experience provides him a deep understanding of the intricacies in preserving and distributing assets for individuals and families. With a personalized approach, Eric is dedicated to helping clients navigate the complexities of estate planning and crafting comprehensive strategies that align with their goals and wishes. We are very pleased to welcome Eric to O'Neil Cannon.

O'Neil Cannon, founded in Milwaukee in 1973, is a full-service law firm that focuses on meeting the many needs of businesses and their owners. Our experienced attorneys work with businesses and their owners at all stages of the business life cycle, helping them start, grow, and transition their businesses. We also assist business owners with their personal legal needs, including tax and estate planning and family law. For more information about the services we provide, please visit our [website](#) or contact your O'Neil Cannon attorney.

THE WILAW QUARTERLY NEWSLETTER

Newsletter Article Highlights:

- Employee Retention Credit: Maximizing COVID Relief by Supplementing PPP
- The Death of Lisa Marie Presley Leads to Brewing Trust Dispute
- Spousal Lifetime Access Trusts, A Powerful Estate Planning Tool for Complex Estates

Firm News:

- Christa Wittenberg Elected to the Firm's Board of Directors
- O'Neil Cannon Serves as Legal Advisor to Diamond Vogel, Inc. in Acquisition of Subsidiary of The Sherwin-Williams Company
- O'Neil Cannon Ranked in 2023 "Best Law Firms"

Click the image below to read more.



O'NEIL CANNON SERVES AS LEGAL ADVISOR TO DIAMOND VOGEL, INC. IN ACQUISITION OF SUBSIDIARY OF THE SHERWIN-WILLIAMS COMPANY

O'Neil Cannon advised Diamond Vogel, Inc. in its recent acquisition of N92 Menomonee Falls, LLC, a subsidiary of The Sherwin-Williams Company. The acquired business, founded in 1951 as Raabe Paint Company, is based in Menomonee Falls, Wisconsin. It employs approximately 100 employees and manufactures color-match touch up paint, custom aerosol, and other specialty coatings.

According to Jeff Powell, Diamond Vogel's President and CEO, the acquisition allows Diamond Vogel to accelerate its aerosol growth strategy. In addition, the Menomonee Falls team's expertise in aerosol manufacturing adds depth and breadth to Diamond Vogel's already existing aerosol manufacturing capabilities. Diamond Vogel, Inc., based in Orange City, Iowa, is a manufacturer of high-quality paint and coatings. Diamond Vogel also has manufacturing operations in Sheboygan Falls, Wisconsin because of its previous acquisition of Faase Paint

Company's aerosol manufacturing business.

The O'Neil Cannon deal team was led by Attorney Jim DeJong with assistance provided by O'Neil Cannon attorneys Britany Morrison, JB Koenings, Joseph Gumina, Nick Chmurski, and Sam Nelson.

TAX AND WEALTH ADVISOR ALERT: SELECTING A FIDUCIARY - ONE OF THE MOST IMPORTANT DECISIONS IN AN ESTATE PLAN

When creating an estate plan, one of the most critical decisions you will make is selecting a personal representative and trustee, also known as "fiduciaries." A fiduciary is a person or institution entrusted with the responsibility of managing assets and carrying out the terms of your estate plan. Choosing the right fiduciary is essential, as they will play a significant role in ensuring your assets are managed and distributed according to your wishes. This blog post explores the various options available for selecting a personal representative and trustee in your estate plan.

Family Member

Many people choose a family member to act as their personal representative and trustee. This option has several advantages, including the fact that a family member is likely to have a personal connection to you and your family, and they may be better able to understand your wishes. However, it is important to consider the potential drawbacks of selecting a family member as your fiduciary. Family members may lack the necessary expertise to manage complex assets or make difficult decisions, and they may also be emotionally invested in the outcome of the estate plan, which can lead to conflicts of interest.

Corporate Fiduciary

Another option is to select a corporate fiduciary as your personal representative and trustee. Corporate fiduciaries have experience managing assets and carrying out the terms of estate plans, which can be an advantage in complex situations. Additionally, corporate fiduciaries have the resources to handle complex financial matters and the ability to remain impartial when carrying out your wishes. However, a corporate fiduciary may have limited knowledge of your personal wishes, the needs of your family, and may lack a personal relationship with your family.

Lawyers or Accountants

A lawyer can also act as your personal representative and trustee in your estate plan. Lawyers have a deep understanding of the legal and financial aspects of estate planning and can provide valuable guidance and support throughout the process. Furthermore, lawyers are trained to remain impartial and objective, ensuring that your wishes are carried out according to your intentions. However, a lawyer may have limited knowledge of your personal wishes or the needs of your family, and may lack a personal relationship with your family. An accountant can also act as your personal representative and trustee in your estate plan. Accountants have experience in managing financial matters, preparing tax returns, and financial record keeping, and can provide valuable guidance and support in estate planning matters.

Selecting a personal representative or trustee is one of the most important decisions you can make in your estate plan. It is important to consider all options so that you select the best fiduciary to carry out your wishes in your estate plan.

TAX AND WEALTH ADVISOR ALERT: CHARITABLE REMAINDER TRUSTS, A DYNAMIC ESTATE PLANNING TOOL TO REDUCE TAXES AND DO GOOD

Charitable Remainder Trusts (CRTs) are a powerful tool for those looking to support their favorite causes while also securing a steady income stream for themselves or their loved ones. These trusts are essentially a way to give cash or other property to an irrevocable trust, with the donor receiving an income stream for a set term of years or for life, while the remaining assets go to the named charity at the end of the trust term.

One of the biggest benefits of CRTs is the immediate income tax charitable deduction that donors receive when they fund the trust. This deduction is based on the present value of the assets that will eventually go to the charity and can be a significant reduction in the donor's overall tax burden.

Another great feature of CRTs is that they can be structured to defer the payment stream, making them an effective income stream during retirement. Additionally, donors can couple a CRT with a [Donor-Advised Fund \(DAF\)](#) to have even more control over how their charitable dollars are invested and distributed.

For donors with highly appreciated assets, CRTs are an excellent way to defer capital gains taxes. When appreciated property is contributed to a CRT, the capital gains tax is deferred until the time that it is distributed out to the income beneficiary, allowing the donor to diversify their position in a tax-effective manner.

Funds or property contributed to a CRT may be removed from the donor's estate for estate tax purposes which may reduce estate taxes in some cases. However, there may be gift tax consequences if the donor names a non-spouse non-charitable beneficiary to receive the income from the CRT.

It's important to note that with a CRT, the individual recipient of the distributions from the CRT during the term of the CRT must pay tax on such distributions, and it is categorized into four tiers: (1) income and dividends; (2) capital gains; (3) tax-exempt income; and (4) return of principal.

In summary, CRTs coupled with a DAF can be a great option for donors seeking a current or future income stream. It is recommended that clients work with a qualified estate planning attorney to confirm that a CRT will provide the expected results from a tax and administration perspective.

TAX AND WEALTH ADVISOR ALERT: DONOR-ADVISED FUNDS, A GREAT WAY TO DO CHARITABLE GIVING

Donor-advised funds, or DAFs, are a popular way for individuals to support charitable organizations they care about while also receiving potential tax benefits. A DAF is essentially a charitable investment account that allows individuals to make a tax-deductible donation and then invest those account funds for tax-free growth. The individual can then recommend grants to virtually any IRS-qualified public charity.

Creating a DAF is simple and straightforward. First, an individual must establish a "giving account" with a public charity. Many financial institutions and community foundations may also be the sponsoring organizations of these accounts. Second, the individual must make a donation of cash, securities, or other assets to the giving account. This donation is generally eligible for an immediate tax deduction. Finally, the funds in the giving account can then be invested for tax-free growth.

One of the benefits of a DAF is that it allows individuals to see their donation grow over time.

Most sponsoring organizations offer a variety of investment options for the charitable dollars in the giving account. This means that individuals can choose an investment strategy that aligns with their goals and risk tolerance.

Another benefit of a DAF is that individuals can support virtually any IRS-qualified public charity with grant recommendations from the account. This includes local homeless shelters, alma maters, religious institutions, and more. The public charity sponsoring the account will conduct due diligence to ensure that the funds are used for charitable purposes.

In conclusion, DAFs are a great way to support charities you care about while also receiving tax benefits. They are easy to set up, offer tax-free growth, and give you the flexibility to support virtually any IRS-qualified public charity at a pace that is comfortable for you. If you are looking for a way to make a meaningful impact on the causes you care about, a DAF may be an excellent option for you.

CHRISTA WITTENBERG ELECTED TO THE FIRM'S BOARD OF DIRECTORS

O'Neil Cannon is pleased to announce that Attorney [Christa Wittenberg](#) was recently elected to serve on the firm's Board of Directors, beginning on July 1. Christa has been with the firm since 2014 as a member of the Litigation Practice Group, where she assists businesses and individuals with pursuing and defending a variety of complex civil litigation matters. Christa is the Chairperson for the Communications Committee at the State Bar of Wisconsin and is a member of the Boards of Directors of LOTUS Legal Clinic, the Association for Women Lawyers, and the Eastern District of Wisconsin Bar Association. She looks forward to applying her leadership skills and her passion for service to ensure that O'Neil Cannon maintains its status as a premier law firm and continues to serve its clients effectively and efficiently.

Christa will be filling the seat of Attorney Dean Laing, who will be stepping down from the firm's Board of Directors after 33 years in that position. Dean is also the immediate past President and Managing Shareholder of the firm, having served in those roles from 2015-2020. He will continue with the firm as a shareholder. The firm is extremely grateful for Dean's strong leadership over the years.

TAX AND WEALTH ADVISOR ALERT: QUALIFIED PERSONAL RESIDENCE TRUSTS - A PLANNING TECHNIQUE TO SAVE THE FAMILY HOME FROM ESTATE TAXES

A Qualified Personal Residence Trust (QPRT) allows a homeowner to transfer their personal residence to a trust for a specified period of time, after which the residence is transferred back to the homeowner or to a designated beneficiary. QPRTs are often used as a tax-saving strategy for homeowners who want to reduce the value of their estate for estate tax purposes.

One of the main benefits of a QPRT is the ability to remove the value of a personal residence from the homeowner's estate. By transferring the residence to a trust for a specified period of time, the homeowner is able to reduce the value of their estate and, as a result, reduce the amount of estate taxes that will be due upon their death.

Another benefit of a QPRT is the ability to maintain the use of the residence during the term of the trust. The homeowner can continue to live in the residence and pay a reduced rent to the trust for the use of the residence. This allows the homeowner to continue to enjoy the residence while also reducing the value of their estate. QPRTs are subject to certain rules and limitations, such as a requirement that the term of the trust cannot exceed the life expectancy of the homeowner and that the fair market rent must be paid to the trust for the use of the residence.

Overall, a QPRT can be a useful tool for homeowners looking to reduce the value of their estate for estate tax purposes while also maintaining the use of their personal residence.