

VOLUME 4 ISSUE 12

ESTATE PLANNING & ASSET PROTECTION



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DECK THE HALLS, NOT YOUR SPOUSE

Holiday time can be stressful on families & may often lead to talk of divorce. Updating the estate plans is crucial whether you stay together or opt to divvy up the fruitcake.

DON'T LET ASSET VULTURES GIVE YOU A BLUE CHRISTMAS

Protect your assets from potential creditors, litigation and fraud in just a few easy steps.

IT'S A WONDERFUL LIFE, BUT IT HAS TO END SOMETIME

Using a Revocable Trust and other advanced planning techniques will assure your family an easy transition of assets upon your death.



WFP

WEALTH FAMILY PROTECTION
Attorneys at Law

WHEN LEGACY MATTERS

At Wild Felice & Partners, we implement estate planning and wealth transfer techniques such as the use of Florida Revocable Trusts and Irrevocable Trusts, Family Limited Partnerships, Limited Liability Companies and other advanced estate planning tools to help our clients avoid probate and limit or eliminate estate tax burdens on family members. We realize that each client is unique and every plan is tailored accordingly to every individual need. Our firm aims to shed the tax attorney paradigm and focus instead on the dynamic relationships between our clients and their loved ones. WFP Law realizes that estate planning is truly for the loved ones that we leave behind.

It's a Wild world. Are you protected?



*Protecting What You Value Most Through
Estate Planning and Asset Protection*

PROVIDING SOLUTIONS THAT SECURE AND ENHANCE YOUR WEALTH AND YOUR LEGACY

Everyone understands the benefits of having insurance to protect your assets from unanticipated events. Hazard and casualty insurance is necessary to provide protection from the risks of fire, floods, and wind damage. Liability insurance is necessary to provide protection from the risks of auto accidents and personal injury. But what can you do to protect your assets from claims in excess of your insurance or from risks of lawsuits or from unexpected business liabilities or from an overabundance of tax consequences? Fortunately having an asset protection plan in place can help insulate you from these potentially significant risks.

We believe in providing you with effective solutions so that you can have confidence that your assets and your legacy are protected. An effective asset protection plan needs to be in place before a lawsuit or claim is made against you, and well in advance of your retirement or death, so it is important to take the step toward greater protection today.

WFP Law is a full-service, Fort Lauderdale, Florida based law firm with a specialty in asset protection. We utilize a combination of estate planning, real estate law, corporate formation, family law, and asset structuring to assure that our clients are protected from potential litigation, creditors, and any other threats that may be looming. A properly designed asset protection plan can accomplish many of your most important objectives:

- Protection of family savings and investments from lawsuits and claims.
- Protection against inadequate or unavailable insurance coverage.
- Insulation of rental properties reducing your exposure to potential lawsuits.
- Protection of business assets and accounts receivable from potential claims.
- Elimination of probate.
- Reduction of estate taxes.

It's a Wild world. Are you protected?



DECK THE HALLS, NOT YOUR SPOUSE

It's the holidays! A time of **cheer** (ex: the happiness you feel when you finish the Christmas shopping that you committed 6 weeks to), **good-will** (ex: when the crazed holiday shoppers steal your parking space, twice) and **family** (ex: hurray, your mother in law is in town!). But, as with all joyous occasions, there can be the tiniest bit of stress involved. Some deal with this stress by creating stronger bonds with their spouse; while others, well they create a stronger bond with egg nog. Regardless of whether you want to deck the halls, or deck your spouse, it may be time to update your estate plan! While there is no specific time for when you need to have your estate plan reviewed, every three to five years is generally sufficient. If, however, there is any particular life event that takes place that will affect your relationships or distributions, you may want to have your plan reviewed for alterations.

If you opt to divvy up the fruitcake, then you will want to take your current estate plan to your attorney to determine whether divorce is addressed in the documents, and to what extent you need to alter them. In most situations, you will want to revoke your will and create a new one to prevent any ambiguity regarding distributions to your ex-spouse. Dependent on how your living trust is drafted, you will likely need to either create a restatement or completely start from scratch; requiring you to rename beneficiary designations for valuable

Every American should have an estate plan in place but the need for comprehensive estate planning is even greater when you have children.

assets such as life insurance policies and retirement accounts. Furthermore, you may want to change your Personal Representative, Trustee's, Guardian's, and designation of Power of Attorney etc.

If, on the other hand, you decide to keep the decking to the halls, you may need to have an attorney review your estate plan to determine if you need to update it to reflect your current status regarding children, estate size, and distribution wishes. When your estate increases, you may want to make some changes in terms of tax and estate planning. Furthermore, if you have an estate plan that is set up to avoid probate, and acquire new property, you will want to assign that property to your living trust. You also may want to consider a variety of estate planning strategies, anywhere from setting up an LLC to protect certain assets from lawsuits (see *Don't Let the Asset Vultures Give you a Blue Christmas*, below), to reducing the size of your estate for tax purposes.

It's a Wild world. Are you still protected?

IT'S A WONDERFUL LIFE, BUT IT HAS TO END SOMETIME

While the “Happy Holidays” and “Merry Christmas” salutations are rarely accompanied with the declaration that “we are all going to die,” we thought we would steal the Grinch’s moment, and be the bearers of bad news. If you have lost a loved one that failed to put a probate-avoiding-estate plan into place, you will be dealing with a mighty gruesome process. However, with the right attorney (and maybe a little holiday eggnog), the stress associated with probate can be significantly reduced.

Probate is the process of validating and distributing the decedent’s assets. This includes a variety of payments that the personal representative will be responsible for distributing, including those to creditors, the court fees, taxes and administration expenses (estate costs, funeral costs, etc.). Naturally, this will also include distributions to the beneficiaries entitled to the assets, as named in the will or trust. This entire process involves extremely complex considerations that are not apparent to anyone who is not trained in the practice of probate administration. Slight mistakes can result in a significant increase in both time and money; and thus it is very important to ensure that the estate is being administered properly. This process will involve tax related consequences, dealing with creditors, inventorying property, appraising property, paying off debts, court filings, procedures to avoid litigation, and considerations associated with exempt property, family allowance, and elective share benefits. In Florida, you cannot avoid the probate process, but you can shift the burden to a trusted attorney who can provide the most expedient and stress free process as possible.

It is a wonderful life, but don’t let it be a Grinch in death – find the right attorney to manage and avoid the pitfalls and problems associated with probate!



DON'T LET THE ASSET VULTURES GIVE YOU A BLUE CHRISTMAS

You’ve seen them: always hovering, waiting for the slightest smell of deterioration to take the opportunity to attack, destroy, and leave its prey in decay. These vultures are not your average pesky little birds, they manifest themselves in the form of creditors, litigation, and fraud; and they want one thing – *your* assets. Do not fear, as there are a variety of ways in which you can protect your bread from the birds! Look to the following plans to ensure that the asset vultures don’t give you a blue Christmas:

LLC Based Asset Protection Plan:

An LLC allows you to use and control an asset, yet you will not own the asset in your name. Rather, it will be owned by the LLC or LLP. Therefore, by separating your assets into several LLC’s, you are safeguarding them from being pulled into a lawsuit brought against you, as they are owned by the LLC.

An LLC is a “Limited Liability Company.” It provides the desirable liability features of a corporation, without all of the extra hassle (paperwork, etc). Lets say you have a boat. So you give it a clever and punning name, and put it in an LLC. A judgment against you is not valid against the LLC and the asset it holds (the boat). Furthermore, lets say you have an investment property (a high risk lawsuit property), and a tenant injures themselves on the property, and commences a lawsuit. They can only sue the LLC. Your home and other assets (bank account, etc.) may not be touched, because you do not own the property, thus you are not personally liable. It’s like being a stockholder in a corporation.

Due to the fact that there are several requirements to properly forming an LLC, you may want to seek an attorney (that has a thorough understanding of such asset protection) to assist you in ensuring that the LLC is valid; otherwise, your safeguarding efforts will be futile. Also, keep in mind; the timing of the asset transfer cannot be done to actively avoid a present creditor, as it may be considered a “fraudulent conveyance.” Therefore, it is important to partake in these asset protection strategies *prior* to any legal or financial problems. The early bird gets the worm - Don’t let it be the Vulture!

Trust Based Asset Protection Plan:

While a living trust is a great tool for estate planning, especially for those who want to avoid probate; it is not as effective in preventing claims of others. An irrevocable trust, on the other hand, allows you to give up “control” for purposes of ownership, in the same way you do with the above LLC. Unlike the living trust, you do not want to name yourself as trustee; rather, you should consider an independent trustee (bank, etc.). You could allow your spouse to be the trustee, but must be certain that they are limited to “ascertainable standards” (where the distributions can only be made for health, education, maintenance, and support.” Furthermore, you want to include a spendthrift clause, which allows distributions to be discretionary, rather than mandatory.

Instead of singing the blues this Christmas, say “bye-bye, bidry!” and defend yourself from the asset vulture with a specialized asset protection plan! **It’s a Wild world. Are you protected?**

What is an ascertainable standard?

Ascertainable standards are designed to balance the power given to the trustee, with the needs of the beneficiary. The ascertainable standards are powers limited to “health, education, maintenance, and support” (also known as “HEMS”). “Support” has been accepted as meaning the kind of support that is consistent with the beneficiaries accustomed manner of living, which allows for a very broad interpretation. “Health” includes “medical, dental, hospital, and nursing expenses” as well as “maintenance in health and reasonable comfort.” “Education,” on the other hand, is construed more narrowly to encompass college and professional education alone. Thus, ascertainable standards supply the trustee with guidelines regarding the permissible reasons to distribute trust assets to the beneficiary. There is a great importance in including ascertainable standards in trusts that function to remove power from the grantor, trustee, and beneficiary. Without these limited standards, the party exercising the power will be considered to have a general power of appointment; which has a variety of tax-related consequences. Thus, the HEMS standards are incredibly important when seeking to protect your assets in a trust.



A LITTLE FABLE AT THE COUNCIL TABLE



IN THE NEXT ISSUE:

ESTATE PLANNING FOR YOUR CHILD

Appointed guardianships and contingent trusts can protect your minor children from predators or even their own spendthrift habits.

UPDATE YOUR ESTATE PLAN

Start the New Year right with that crucial call to your estate planning attorney.

THE UGLY WORLD OF PROBATE

Are you at risk?

DO-IT-YOURSELF WILLS

The deadly truth behind this consumer trap.

*That is, be it understood,
Good at meal-times, good at play,
Good all night and good all day –
They shall have the pretty things
Merry Christmas always brings.
Naughty, romping girls and boys
Tear their clothes and make a noise,
Spoil their pinafores and frocks,
And deserve no Christmas-box.*

If you want to be a beneficiary of Santa's gifts, you better behave!

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