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WILD FELICE & PARDO, P.A.

VOLUME 1 ISSUE 2

Providing innovative legal solutions for the challenges you face.

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.

Wild Felice & Pardo 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.

Are You Protected?

Ideally, each person who owns property, has a bank account with over $5,000 in it, runs a business, or has a family would form a comprehensive asset protection plan by using various trusts and corporations to reduce their liability to creditors, litigants, and taxes and to preserve their assets for their family well beyond their own lifetime. Most people incorrectly believe that they don’t have enough assets to warrant the institution of a plan. Even more people realize that they need one but just never get around to getting it completed.

Fifty-five (55) percent of all adult Americans do not have a will, yet over seventy-five (75) percent over Americans own real property, including single-family homes, condominiums, vacation property, and property rented for investment purposes. Additionally, over half of all Americans have children and over fifteen (15) percent are approaching retirement age. This lack of asset protection is inexcusable. Do you have a family? Do you own property? Are you protected?

Let us protect what you value most.

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Put Your Trust In Life Insurance and Your Life Insurance In Trust

While the benefits received from a life insurance policy are not treated as income for tax purposes, if the life insurance policy was owned by the deceased within three years of his death, the estate of the deceased will be taxed on any amount of the insurance proceeds above the estate tax threshold. Okay, now in plain English. If you take out a life insurance policy on your own life, fund the policy during your life, and leave the proceeds to your spouse or other family member, they will owe big time taxes. So what can you do to avoid this?

Creating an Irrevocable Life Insurance Trust (or "ILIT") will protect your family from the burden of estate taxes upon receiving the benefits of the life insurance policy. This estate tax savings estate tax savings can be accomplished either by the insured establishing an ILIT and giving existing life insurance policies to the trust, or by the trust itself purchasing a new policy on the insured's life. The insurance will be excluded from the insured's estate because the insured will not own the policy at the time of death.

There are three requirements: (1) the insured must not own or retain any incidents of ownership in the insurance, (2) the proceeds must be payable to the trust rather than the estate, and (3) if policies are given by the insured to the trust, the insured must survive the gift by 3 years. To avoid any gift tax consequence, simply borrow against the existing life insurance policy for the amount of equity/value already attained by the policy since instituting it.

An ILIT also provides the benefit of instructing who gets the money, at what age they get the money, and under what conditions they can get the money. For instance, you wouldn't want your 7 year old to inherit $2 million in one lump sum. How much candy and video games do they actually need? Instead, the ILIT can name a trustee and pay for the needs of the child until the child reaches a suitable age for inheritance, such as 18, 21, or 25. You can see that your child is cared for but not given the opportunity to frivolously spend away the inheritance.

Did you know?

There are two easy ways to give gifts without incurring the gift tax:

- You may pay an unlimited amount in medical or educational expenses for another person, if you give the money directly to the institutions where the expenses were incurred, or
- You may give up to $13,000 a year in cash or assets to as many people as you like.

The Not-So Crummey Trust

Although the name sounds like a description for a poorly drafted trust, a Crummey Trust is actually an estate planning tool that allows the settler to utilize the annual gift tax exclusion when gifting into the trust. The trust beneficiary must have notice of the gift into the trust and retain the right to withdraw the gift from the trust. However, this right can expire after a reasonable length of time, usually 30 or 60 days.

The Crummey Trust allows for the buildup of a large trust over a number of years if the beneficiary does not withdraw the annual gifts into the trust. Another good use of the Crummey Trust occurs when the trustee purchases life insurance on the life of the settler and pays the premiums with the annual gift into the trust.

This creates the potential that a large trust fund will be created when the insurance is paid to the trust on the settlor's death. Because the Crummey Trust is irrevocable, the trust is not considered part of the settlor's estate and thus is not subject to Federal estate tax.

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Why Estate Planning Should Be Every American's Primary Concern

While the nation still debates health care reform, a larger problem faces Americans. Seventy-eight percent of Americans own a home and fifty-five percent of Americans have minor children living at home, yet less than half of the country has even executed a will, much less the other documents that make up a complete estate plan. Some of us may need long-term health care and some of us might not but the only two certainties in this life are death and taxes. While we at Wild Felice & Pardo are unable to help you live forever, we are very good at limiting the amount of taxes your family will have to pay after you are gone.

Did you know that the estate tax threshold could be as low as $1 million in 2011 and the estate tax could be as high as 55%? $1 million seems like a lot of money but when you consider that the amount of life insurance you have is added to your estate immediately upon death, $1million can quickly sneak up on you. You work your whole life earning a wage. The government taxes that wage somewhere between 20 and 35 percent. Then, after you are gone the government takes an additional 45 to 55 percent of what you left behind. Almost 80 percent of what you earn in your lifetime will go directly to taxes unless you take the time to sit down with an attorney and draft your estate plan.

There are five components to a basic estate plan.
Will: A legal declaration by which a person, the testator, names one or more persons to manage his or her estate and provides for the transfer of his or her property at death.
Living Will: A written document that states a person's wishes regarding life-support or other medical treatment in certain circumstances, usually when death is imminent
Power of Attorney: A written authorization to an agent to perform specified acts on behalf of his principal. This may be granted as either a general or a limited power.
Health care surrogate: An adult who is appointed to make healthcare decisions for you when you become unable to make them for yourself.
HIPAA designation: A written document that allows certain designated individuals to have access to your medical records.

In addition, there are also multiple trusts and other products for further control and estate tax reduction. If you have a spouse, a child, own a home, or want to leave behind a legacy of any kind, you need to talk to an attorney about getting your will and other estate planning documents in order. It is crucially important that you not put this off any longer. None of us can control how much time we have left but we can control how are loved ones are cared for when that time comes.

The Dirty Truth About Probate

Many people incorrectly believe that having a will avoids the costly and time-consuming probate process. In reality, all wills go through probate. Having a will doesn't prevent probate, but it does give you more control over how your assets are distributed.

Without a will, the state of Florida will provide you with an intestate estate plan and divvy up your assets in a manner previously set forth through statute.

There are many ways to avoid the probate process completely. They involve a combination of trusts, corporations, life insurance policies, and quit claim deeds.

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Wild Felice & Pardo, P.A. Looks Forward to a Promising 2010

We at Wild Felice & Pardo wish to thank all of our family, friends, clients, and colleagues for a terrific January and look forward to continuing our relationships into 2010 and beyond. The upcoming year looks to be very dynamic due to major changes in the estate tax laws, a growing real estate and economic crisis, and an unpredictable economy. We can't claim to know exactly what is in store for you and your family, but we can promise to be available through it all, working together to set and achieve your desired results.

We realize that each client's needs are unique and treat each of our clients as if they are our only client. We hope you will take the time to contact us and truly experience all of the benefits that our law firm has to offer.

Managing Partners Michael Wild and Anthony Felice