



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.

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.



THE NEW YEAR'S RESOLUTION EDITION

This edition of the WFP Monthly newsletter is dedicated to those things that you know are important to take care of but that you spent all of 2010 putting on the "back burner." We are going to help you stop procrastinating by giving you a kick in the pants and providing you a one-stop shop for the following needs:

- Protecting your family by setting up a trust-based foundational estate plan
- Protecting your assets from any future creditors, litigation, foreclosure, bankruptcy and divorce
- Assuring that your business lives longer than you do
- Planning for possible Federal medical assistance
- Titling all of your assets correctly



Everyone should have their affairs in order; the need is even greater when you have a family's future to think of.



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Are Your Assets Protected for 2011?

In this depressed economy, every dollar you earn and every asset you own is at risk. Vultures in the form of creditors and litigators are salivating at the thought of a successful individual who has his assets unprotected. If you are making money, you currently have a bull's eye on your back. The only way to protect what you've earned from those that are trying to take it from you is to set up a comprehensive asset protection plan. Thirty percent of potential lawsuits are avoided by the mere presence of an asset protection plan. There are three techniques for protecting your assets. Any one person might utilize one or all of these techniques.

1. The first technique is to remove your name from the ownership of your assets, but not from the control of your assets. You want to be rich but look poor.

One entity that you can transfer your assets into to accomplish this goal is a limited liability company, or LLC. A creditor cannot attach a debt to the membership interest of an LLC. Therefore, the shares you own of any LLC are protected from any creditor liens. The creditor or judgment holder is limited to owning a charging order against any distributions made from the LLC. They will not be able to touch any of the assets in the LLC, nor can they take any money you pay yourself as salary (without an order allowing a garnishment of wages) or any assets purchased or sold in the name of the LLC. As long as you avoid distributions from the LLC, the creditor will have no ability to collect at all.

2. The second technique is to convert your assets into vehicles that are already creditor-exempt. Homestead property, annuities, IRA's, pension plans and life insurance policies are the most common creditor-exempt entities.

For new or existing Florida residents, by far the most convenient vehicle to protect your assets is via the Florida Homestead statute. Any interest acquired in, or value added to, a person's homestead is protected by Florida's homestead exemption. The only creditors that are able to attach a lien to your homestead property are those creditors that hold liens arising out of your property. The three most common liens of this type are mortgage liens, Federal tax liens and mechanic's liens (money owed to someone you hired to do work on your property). Association liens are also of this type.

3. The third technique is to make all of your current assets less attractive to those who might be looking to take them from you.

We do this through a process called equity stripping. Placing liens on assets that are currently unencumbered or have some equity makes the asset appear more like a liability. You don't actually have to go to a bank and take out a loan. Equity stripping doesn't have to cost you any additional money. You can have one of your out-of-state LLC's write a Note for more than your property is worth. When a creditor or litigator looks at your assets, they will see a piece of property that is encumbered by a loan worth more than the asset itself. The property will be "under water" and undesirable to any potential asset vultures.

Asset protection is a necessity in this day and age of "money for nothing" mentality. Fifty million law suits are filed each year. Each of us will be sued 5 times during our lives. Will you brush your lawsuit off without worry or will one of those law suits permanently cripple you and your family financially? The time to plan is now.



Did you know?

Medicaid will count the entire value of joint property as assets of either owner. A technique that is commonly used to bypass this is a deed with a "retained life estate", in which you may deed land to another and retain the right to use and occupy it during your lifetime. Land passes directly to the recipient at your death and does not pass through will or probate.



Do You Own A BUSINESS?

There are basically two ways to arrange a business succession. The Cross-Purchase Agreement can be used to provide your business with a succession plan. Under a cross-purchase plan, each partner agrees in advance to buy the other partner's share while the withdrawing partner agrees to sell his or her share to the remaining partners. The business is not involved in the transaction. Therefore, when partners execute a cross-purchase agreement to buy each others' share, they must have the personal funds to do so when a partner withdraws. For this reason, life insurance is commonly used to provide such funding. Each partner buys a life insurance policy on the life of every other partner, pays the premiums out of their own pocket and is the policy's beneficiary. Since each partner could have multiple policies to maintain, cross purchase agreements work best when the number of total partners is relatively small.

The other way to arrange a business succession plan is through an Entity Purchase Agreement. It is structured so that each partner agrees to in advance that if he or she withdraws from the company, they will sell their share in the business to the company. The company then buys a life insurance policy on the life of every partner, pays the premiums out of the company accounts. When a partner dies or is incapacitated the business collects the insurance proceeds and buys the withdrawing partner's share. Entity Purchase Agreements are easier to administer since they only require one policy type per partner.

While both ultimately serve the same purpose, they are used in different situations. The contracts must be drafted clearly and without any ambiguous terms to avoid future complications or delays. More importantly, the only way to make sure that things turn out the way you intend is to have an attorney alert you to all the consequences of your decisions. Remember this is more than a business plan; it's your family's future.

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PRESIDENT OBAMA DELAYS ESTATE TAX UNCERTAINTY FOR AT LEAST TWO MORE YEARS

In a wise, but surprising turn of events, the President has agreed with the Republican Congress and adjusted the estate tax levels for 2011 and 2012. For the next two years, the estate tax will be levied on all estates over \$5 million for an individual and \$10 million for a married couple and at a rate of 35 percent. Historically, Republicans have often been known for their disdain of excessive taxes and Democrats have been known as the party that favors big government and higher taxes. With the referendum against the Democrats in the last election and the heavy shift to a Republican House and Senate, the President had no choice but to cave to the Republican demand for a lower estate tax. If not, the amount of estate taxes paid by the families of middle-income voters would have been a hot button topic during the 2012 Presidential election, and could have been the cause of a loss of the White House.

So where does this leave us? While the estate tax is held in check for the next two years, there is no definitive answer as to where it goes after that. In 2013, we could have another year of no estate tax or we could have a 55 percent estate tax on everything over \$600,000. Who knows? The only thing that we can do is hope for the best and prepare for the worst. A trust-based estate plan will ensure the most tax savings no matter what the estate tax number is in the year you die. In addition, there are more advantages to having a trust than just estate tax protection.

While the estate tax garners the most publicity, it is actually the probate process that tortures and bankrupts most families. Probate is a lengthy process that can tie up your assets for years and cost your beneficiaries hundreds of thousands of dollars. Probate is necessary when you die owning assets in your own name, whether or not you have a Will. Probate will include everything from real estate to jewelry to vehicles to baseball card collections. If you own any tangible asset in your own name at the time you die, it will be included in the probate process. Bank accounts and brokerage accounts will also have to be probated if there is no valid beneficiary designation on file with the bank or brokerage house. Only a Revocable Trust can avoid Probate.

In addition to probate avoidance, a Florida trust offers the benefits of controlling your assets for up to 360 years after you die, limiting access to the trust based on age, graduation or other accomplishments you wish your children to reach, and provides your beneficiaries with instant asset protection if drafted appropriately. You can use an Irrevocable Trust to protect assets from creditors, a Special-Needs Trust to provide for a child with special needs while protecting their Federal aid, and a Charitable Remainder Trust to leave a legacy with a charity after you are gone while reaping the income tax benefits of the contribution while you are alive.

No matter what the estate tax level is in 2011, 2012, or any year going forward, every person should consider a trust as the centerpiece of their foundational estate plan. Setting up a trust today will save your family time, money, and frustration in the future.



EXCITING NEWS: WILD, FELICE & PARDO, PA IS GROWING

Due mostly in part to the tremendous trust and support that you have provided to us over the course of 2010, we are proud to welcome Jennifer Sharpe as the newest addition to our legal team.

Jennifer was admitted to the Florida Bar in 2001. She focuses her practice on estate planning and estate and trust administration, as well as asset protection. Her practice includes the administration of both taxable and non-taxable estates and trusts, as well as post-mortem planning techniques. She also counsels clients on wealth preservation, succession planning for closely-held businesses, charitable giving, and insurance planning.

Jennifer was formerly an associate with Tripp Scott, P.A. and a Senior Consultant with Deloitte & Touche LLP. She is also a Certified Public Accountant in the state of Florida.

She is a graduate of Class XXVIII of Leadership Broward and is a member of the advisory board of the Boys & Girls Club, the S. Robert Levine Campus, William E. Slaughter Unit.



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