GORDON THOMAS HONEYWELL LLP

Trusts & Estates Newsletter

FALL-WINTER 2017

PROTECTING YOUR ASSETS WITH ESTATE PLANNING

How to keep your hard-earned assets safe for the future? And safe for future generations? You may have thought about traditional means of protection, such as insurance (car, home, umbrella, etc) and using LLCs or other corporate entities to keep business funds separate from personal funds. (If you'd like to know more, ask us for our spring newsletter.) But your estate planning attorney may have a few other ideas that can help.

First, to be clear, you shouldn't attempt to protect (or hide) assets when there is an active claim against you. Transferring assets to avoid a creditor is a surefire way to end up with even heavier penalties. But if you're planning for the future – unexpected but possible liabilities – good advance planning can help.

Here are some actions you can take right now to protect your assets for the future:

- **Build up your retirement accounts.** Generally, these are well-protected from creditors. So invest for retirement, and only draw down these assets as a last-resort measure.
- **Give assets away early in an irrevocable trust.** Potential creditors can't reach assets you've already given away.
- **Make sure your estate plan is solid.** We recommend updating your Wills and other documents at least every 10 years to account for changes in your situation and your fiduciaries' ability to help.

Though we don't like to think about it, sometimes things can go wrong for our kids – they can have creditors, or an unfortunate divorce. Here are some ways to protect the assets you're planning to leave to your children or others:

- **Put assets in a trust for adult children.** Maybe a child's future marriage will go wrong, or the child will have financial challenges. To protect his or her inheritance, consider leaving it to him or her in trust, rather than directly.
- **Redesignate your life insurance.** Protect your life insurance from your beneficiaries' creditors by designating a trust as the beneficiary, rather than the individual. Most importantly, don't designate your estate as the beneficiary. This could cause the proceeds to be vulnerable to someone trying to make a claim against your estate.
- **Put assets in a special needs trust.** A well-drafted Special Needs Trust will hold assets for a child with special needs, but it won't disqualify her or him from receiving state aid. You can create a Special Needs Trust for another person in your will, or create and fund one during your lifetime.

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Protecting Your Assets with Estate Planning continued...

Here are some options to think about when you have changing relationships:

- **Protect assets with a pre-nup or post-nup.** If you're considering marriage, a well-drafted prenup or post-nup, with both sides represented by attorneys, can protect both from claims by the other if the marriage goes south. And, sometimes more importantly, it can provide clarity and protection after the first spouse's death.
- **Consider holding separate property in a revocable trust.** If you get married in mid-life, when you already have some assets, you can help keep separate property separate – and potentially safe from your spouse's creditors – by putting those assets in a separate-property revocable trust.
- **Consider a "living-together agreement."** Though Washington doesn't have common-law marriage, residential relationships can turn into "Committed Intimate Relationships" under the law. That means a person in a residential relationship can claim they helped the other to maintain the house, produce their income, purchase other properties, etc. A well-drafted "living-together agreement" can block those claims.

These are some general ideas about asset protection that may or may not apply to you. For a plan that is tailored to you and your unique situation, give us a call.