



Worth Knowing

The Wealth Advisor

Presented by

Wilson Law Group, LLC

~Fall 2015~

What's Hot in Estate Planning Right Now May Surprise You

Some view asset protection planning with a skeptical eye. They believe there is a moral obligation to pay one's debts. They think that asset protection planning is immoral because it prevents a creditor from collecting on a judgment entered by a court.

The truth is the U.S. justice system is unpredictable. Defendants are faced with ever-expanding theories of liability, being sued just because they appear to have "deep pockets," and judgments entered against them based on desired outcomes instead of the law.

In this issue you will learn:

- What asset protection planning is, and what it is not.
- You have already engaged in traditional asset protection planning, and it is likely not enough.
- Attorneys may ethically and legally help you protect your assets from future creditors, predators, and lawsuits.

What Asset Protection Planning Is, and What It Is Not

Asset protection planning is a legitimate form of wealth planning. Attorneys who engage in asset protection planning help their clients preserve and protect their property in advance of a claim, or the threat of a claim.

The goals of asset protection planning are to provide an incentive for settling a claim, improve your bargaining position, offer options when a claim is asserted, and, ultimately, deter litigation.

On the other hand, asset protection planning is NOT about avoiding taxes, keeping secrets, hiding assets, or defrauding creditors.

Planning Tip:

Asset protection planning will not be effective to shield your property from an existing claim. It must be done long before there is even the hint of a claim. An attorney who attempts to help you protect your property after a lawsuit has already been threatened or filed could potentially be subjected to professional misconduct, malpractice, civil liability, or even criminal punishment.

What Traditional Asset Protection Planning is, and Why It Often Fails

You have undoubtedly engaged in traditional asset protection planning at some point in time. The most common type is the purchase of liability insurance – automobile, homeowners, umbrella, officers and directors, malpractice, and the like. Unfortunately, liability insurance may actually encourage a lawsuit since it is perceived as “easy money.” Aside from this, liability insurance often fails due to inadequate coverage, extensive policy exclusions, or the carrier becoming insolvent.

Another common type of traditional asset protection planning is the use of a business entity, such as a corporation, to segregate business assets and liabilities from personal assets and liabilities. While a corporation may shelter personal assets from a lawsuit filed against the corporation, the opposite is not true – if you, as the shareholder of a corporation, are personally sued, your shares of stock in the corporation are not protected from a judgment entered against you. Of course, it is possible that if certain corporate formalities are not observed, then the “corporate veil” may be pierced and the shareholder’s personal assets will become vulnerable to a judgment entered against the corporation.

Finally, many states allow their residents to exempt specific assets from the claims of creditors. This may include protection for property owned jointly by spouses (“tenancy by the entirety” ownership), a primary residence (“protected homestead”), the cash value of life insurance, investments held in a retirement account, and annuities. Nonetheless, these state exemptions are often subject to limitations, such as placing a cap on the value or land area of the protected homestead.

Planning Tip:

Despite their limitations, you should not overlook traditional forms of asset protection planning:



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- When possible, you should use liability insurance as the first line of defense against a claim.
- While a corporation that fails to observe corporate formalities may not provide adequate protection for your personal assets as a shareholder, other types of business entities, such as a limited partnership or a limited liability company, may be used to shield your personal assets from liabilities.
- Clarifying ambiguities or drafting errors in the trust agreement.
- Changing the governing law or trust situs to a less taxing state.
- Modifying powers of appointment.
- Merging similar trusts into a single trust or creating separate trusts from a single trust.
- Adjusting the trust terms to provide for a special needs beneficiary.
- If you are married and reside in a state that recognizes tenancy by the entirety, or own property located in a state that recognizes it, then you and your spouse need to make sure your property titled jointly with each other is owned as tenants by the entirety and not as joint tenants.
- You need to be aware of the limitations of your state's creditor exemptions and expand your protection beyond these exemptions where applicable.

When Done Right, Asset Protection Planning is Completely Legal and Ethical

Using all legal tools available to help a client protect their assets from future claims is consistent with the rules of professional conduct that govern the actions of attorneys. In fact, these rules require attorneys to pursue representation of their clients with diligence and advocacy. What these rules do not allow, however, is assisting or counseling a client in fraudulent or criminal conduct.

In order to insure that your asset protection plan does not involve any fraudulent activity and will work if it is ever needed, an asset protection attorney will carefully interview you as a potential client to determine if:

- You are about to be, or have already been, sued.
- You are about to, or have already, filed for bankruptcy.
- You are delinquent in reporting and/or paying taxes.
- You are being audited by a taxing authority.
- You are directly or indirectly liable for any loans.
- You are solvent and will remain solvent after any property transfers.

Planning Tip:

Asset protection planning is a complex area of the law. Your advisors must be knowledgeable about debtor/creditor laws, fraudulent transfers, tax planning, civil



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litigation, property laws, bankruptcy, and other related areas. Aside from this, your advisors should do their due diligence in vetting you as a potential client and be well-versed in both the design and the defense of asset protection plans.

The Final Truth about Asset Protection Planning

You may drive carefully and avoid getting into barroom brawls, but you can never completely avoid all activities that create liability. Asset protection planning is not only an ethical and acceptable form of wealth planning, but your attorney and other advisors who do not advocate this type of planning are doing you and your family a disservice.

Our office is experienced at creating asset protection plans that are custom-tailored to your family situation and financial status. Please call us if you have any questions about this type of planning and to arrange for an asset protection consultation.



Holiday Closings at Wilson Law Group



Thursday, November 26

Closed all day

Friday November 27

Closed all day

Thursday, December 24

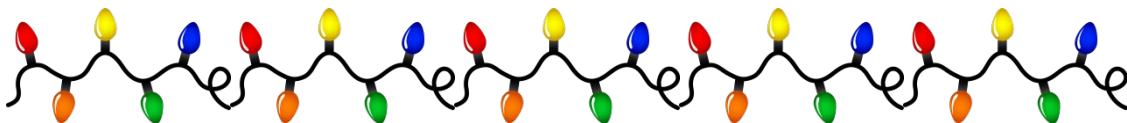
Closed afternoon

Friday, December 25

Closed all day

Friday, January 1

Closed all day



Tax Guides Are Here!

Included with this quarter's newsletter are our annual tax guides.



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RWay Workshops

Our First Symposium is Around the Corner!

Don't forget to sign-up for our RWay educational workshop symposiums. We will have these events in November, February, and May. We look forward to seeing you there!

Symposium 1

Saturday, November 14, 2015

8:30 a.m. Trustee Training: <i>The Trust Process</i>	8:30 a.m. Protecting Your Identity and Your Credit
Break	
9:45 a.m. Trustee Training: <i>Administration Process</i>	9:45 a.m. Estate Plans of the Rich and Famous
Break	
11:00 a.m. Funding Your Trust	11:00 a.m. LegalVault

Symposium 2

Saturday, November 14, 2015

8:30 a.m. Funding Your Trust	8:30 a.m. LegalVault
Break	
9:45 a.m. Trustee Training: <i>Trust Process</i>	9:45 a.m. Planning for Long Term Care
Break	
11:00 a.m. Trustee Training: <i>Administration Process</i>	11:00 a.m. Pre-Planning Your Funeral

Symposium 3

Saturday, November 14, 2015

8:30 a.m. Trustee Training: <i>The Trust Process</i>	8:30 a.m. Income Taxes for Trusts
Break	
9:45 a.m. Trustee Training: <i>Administration Process</i>	9:45 a.m. Leaving a Legacy
Break	
11:00 a.m. Funding Your Trust	11:00 a.m. LegalVault

3 Ways to RSVP

Call for Registration

608-833-4001

Email

danielle.boullion@wilsonlawgroup.com

Our Website

www.wilsonlawgroup.com

(Seminars; For Clients Only; Register)



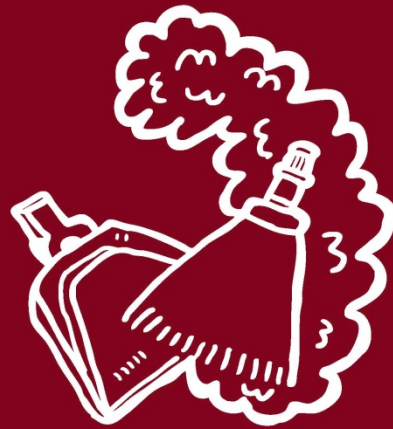
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PARDON OUR DUST



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Help Us Support Our Military Members and Their Families!

Last quarter our firm introduced the work that we will be doing with the USO throughout the holiday season and into the spring. We are happy to report that the response from clients like you for the USO's Operation Christmas has been overwhelmingly supportive. Cash and other monetary donations have already reached **\$2,023!!** These generous cash donations combined with our overflowing box of donated toys are sure to bring joy to many military families this holiday season.

However, we don't believe that giving comes from donations alone. Our staff has decided to give just a little bit more by spending the day with the USO during the Operation Christmas event to volunteer. We look forward to seeing the smiles, and perhaps tears of joy and gratitude, as we work with this amazing organization. Stay tuned to our website and Facebook page for photos of our experience!

How You Can Help

If you are interested in donating, a donation box for the USO will remain in our lobby until Thanksgiving.

Gifts for Children

- No more than \$25 (unwrapped)
- Ages 1-17 (last year there weren't enough gifts for the 10-17 age group)
- Educational, Arts & Crafts, Board Games, Video Games, Music Player
- NOT from Dollar Store
- NOT Battery Operated

Gifts for Adults

- Gifts children would normally give to a parent
- Examples: Ties, Wallets, Perfume, Jewelry

Monetary Donations

- Checks should be made out to "USO Wisconsin"



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Fall Factoids – Did you Know??



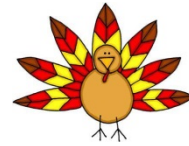
Halloween



The Celts, who lived 2,000 years ago (now Ireland, the United Kingdom and northern France), celebrated their new year on November 1. This marked the end of summer and harvest and the beginning of the dark, cold winter. Celts believed that on the night before the new year, the boundary between the living and the dead became blurred. On the night of October 31 they celebrated Samhain (pronounced sow-in), when it was believed that the ghosts of the dead returned to earth.



Thanksgiving



The first Thanksgiving festival lasted three days. There were not pies, cakes, or even cranberries in the feast, but there are records that fowl and deer most likely prepared with Native American cooking methods. The pilgrims of the Mayflower forged alliance with a local tribe known as the Wampanoag, with the help of Squanto, which would endure for more than 50 years. Tragically, it remains one of the very few examples of harmony between European colonists and Native Americans.



This Season in History



October 25, 1881: Pablo Picasso, one of the most influential artists of the 20th century, was born.

November 8, 1960: John F. Kennedy is elected president. Beating Richard Nixon, Kennedy was the youngest person to be elected president.

November 10, 1775: John Adams drafted a resolution stating that “two Battalions of Marines be raised,” which is considered the birth of the U.S. Marine Corps.

November 19, 1863: Lincoln delivers the Gettysburg Address, which inspired Union troops to keep fighting in just 272 words.



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