Worth Knowing

The Wealth Advisor
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Seven Trust-Based Asset Protection Strategies for You and Your Family

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You don't have to make your family's assets easy for creditors to reach. Protecting your hard-earned assets for the benefit of yourself and your family can be accomplished through careful planning. These seven trust-based asset protection strategies can put significant (and often insurmountable) obstacles in the way of a creditor.

In this newsletter you will learn about seven trust-based asset protection strategies and how they can:

- Protect your assets from creditors, predators, and lawsuits.
- Protect assets gifted to, or inherited by, your spouse, children, or other beneficiaries.

If you have questions or would like to discuss your options for trust-based asset protection, please call our office now.

Four Types of Lifetime Asset Protection Trusts – Having Your Cake and Eating it Too

A Lifetime Asset Protection Trust is an irrevocable trust created during your lifetime that can be used to accomplish several goals.

- ❖ A Medicaid Planning Trust may qualify you or your spouse for Medicaid while preserving an income stream for the well spouse and protecting the trust assets from estate recovery after death.
- ❖ A Lifetime QTIP Trust is a lifetime trust for your spouse's benefit using the gift tax marital deduction. This can provide asset protection plus a reduction in overall estate taxes.
- ❖ A Family Bank Trust, also known as Spousal Lifetime Access Trust ("SLAT") is a lifetime trust for your spouse's benefit using annual exclusion gifts and the lifetime gift tax exemption. Again, these trusts can provide asset protection plus a reduction in overall estate taxes.

❖ A Domestic Asset Protection Trust ("DAPT") is a lifetime trust for your benefit, primarily providing asset protection.

1. Medicaid Planning Trusts

Medicaid Planning Trusts may help you and your spouse (if you're married):

- Qualify for Medicaid while protecting an income stream for the benefit of the well spouse.
- Avoid estate recovery. Assets held in this trust will pass to your heirs protected from the government's estate recovery, which would otherwise require paying back Medicaid benefits that were received during your lifetime.

Planning Tip: Medicaid is jointly funded by the federal and state governments, so each state sets its own rules and guidelines for Medicaid eligibility and estate recovery. Therefore, a Medicaid Planning Trust must be tailored to the laws of your state of residence. Trusts may also be subject to a look-back period (NOT "disqualification period") of three or five years. Medicaid Planning usually works best if done as early as possible, so please call our office now if you have Medicaid planning questions.

2. Lifetime QTIP Trusts

When one spouse is significantly wealthier than the other spouse, a Lifetime QTIP Trust offers the following benefits:

- Makes use of the less wealthy spouse's federal estate tax exemption.
- Provides a lifetime, asset-protected trust for the benefit of the wealthier spouse if the less wealthy spouse dies first. (Subject to state law.)
- Insures that assets left in the trust (after both spouses die) get distributed according to the wealthier spouse's wishes.

Planning Tip: Lifetime QTIP Trusts offer a great deal of flexibility when spouses have lopsided estates. During the less wealthy spouse's lifetime, that spouse will receive all of the trust income and may be entitled to receive principal. If the less wealthy spouse dies first, then the assets remaining in the trust will be included in his or her estate, thereby making use of the less wealthy spouse's estate tax exemption. Although some of the estate tax savings might be obtainable with "portability," the asset protection aspects are only available with a Lifetime QTIP.

Depending on applicable state law, the remaining trust funds may continue in an asset-protected, lifetime trust for the surviving spouse's benefit. These trust funds will be excluded from the surviving spouse's estate when he or she later dies and will ultimately be distributed according to the wealthier spouse's wishes.

3. Spousal Lifetime Access Trusts

SLATs or "Family Bank Trusts" became popular for married couples in 2012 when it was anticipated that we would go over the proverbial "fiscal cliff." They still remain popular today as an estate tax reduction and asset protection strategy.

This trust is sometimes also referred to as a "Lifetime Bypass Trust" since it is funded with lifetime gifts that are held for the benefit of you or your spouse. As with a Bypass Trust created after the first spouse's death, distributions from a SLAT can be as broad or as limited as you choose.

Planning Tip: SLATs are useful if you live in a state that does not collect a state gift tax but collects a state estate tax and the state exemption is expected to remain significantly lower than the federal exemption (e.g., Maine, Massachusetts, Minnesota, New Jersey, Oregon, Vermont and Washington).

4. **Domestic Asset Protection Trusts**

The goals of a DAPT are to allow you to fund the trust with your own property, maintain some degree of interest in the trust as a beneficiary, and protect the trust's assets from your creditors. Currently 16 U.S. states permit creation of DAPTs and the number will likely continue to grow, although laws vary widely from state to state.

Planning Tip: The laws governing DAPTs are relatively new and still evolving. In addition, U.S. courts have been limited in interpreting them. Aside from this, bankruptcy laws allow trust assets to remain exposed to the claims of your creditors for ten years. Nonetheless, a DAPT can be a powerful asset protection strategy for the right person.

Three Types of Testamentary Asset Protection Trusts – Ruling from the Grave

A Testamentary Asset Protection Trust is an irrevocable trust created after your death and used for a variety of reasons.

- Irrevocable Life Insurance Trusts ("ILITs") protect life insurance proceeds for the benefit of your heirs.
- Standalone Retirement Trusts protect retirement accounts for the benefit of your heirs.
- Discretionary Trusts protect other assets for the benefit of your heirs.

1. **Irrevocable Life Insurance Trusts**

An ILIT is a powerful tool for leveraging generation-skipping planning and protecting insurance proceeds for the benefit of your intended beneficiaries. In addition to asset protection, an ILIT can remove life insurance proceeds from your estate for estate tax purposes and, with proper planning, provide much-needed liquidity for owners of illiquid assets, like farms, closely held businesses, or real estate.

2. **Standalone Retirement Trusts**

Because of the recent U.S. Supreme Court decision in Clark v. Rameker (which held that an IRA inherited by a non-spouse beneficiary is not protected from the beneficiary's bankruptcy creditors), the Standalone Retirement Trust has become an important vehicle for protecting retirement accounts from the creditors of your beneficiaries.

Planning Tip: If you have more than $200,000 in a retirement account and you have named your children as primary beneficiaries of the account, then please call our office now to discuss how a Standalone Retirement Trust can be used to protect the account from your children's creditors after death.

3. Discretionary Trusts

A Discretionary Trust is an Irrevocable Trust that can be built into an ILIT and is an integral part of a Standalone Retirement Trust. You can also include a Discretionary Trust for each of your beneficiaries in your Revocable Living Trust to protect other assets.

Planning Tip: If you are concerned about an heir who is (or may become) a spendthrift, married to an overreaching spouse, bad at managing money, in a high-risk profession, or worried about being sued, we can help you incorporate Discretionary Trusts into all of the testamentary trusts created in your estate plan.

Trust-Based Asset Protection Planning - The Bottom Line

Although asset protection trusts must be irrevocable to safeguard the trust property, they still offer a great deal of flexibility and protection for your own property as well as property gifted to, or inherited by, your loved ones.

This type of planning can become complicated and should not be attempted without the assistance and counseling of an experienced attorney. We are here to answer your questions about trust-based asset protection strategies and advise you on planning options. Please feel free to call our office now.

Paying for Your Grandchildren's Education

The bond between a grandparent and grandchild is a very special one based on respect, trust and unconditional love. When preparing one's estate plan, it's not at all uncommon to find grandparents who want to leave much or all of their estate to their grandchildren. With college tuition costs on the rise, many seniors are looking to ways to help their grandchildren with these costs long before they pass away. Fortunately, there are ways to "gift" an education with minimal consequences for your estate and your loved ones.

The options for your financial support of your heirs' education may vary depending upon the age of the grandchild and how close they are to actually entering college. If your grandchild is still quite young, one of the best methods to save for college may be to make a gift into a 529 college savings plan. This type of plan was approved by the IRS in Section 529 of the Internal Revenue Code. It functions much like an IRA in that the appreciation of the investments grows tax deferred within the 529 account. In fact, it is likely to be "tax free" if the money is eventually used to pay for the college expenses. Another possible bonus is that you may get a tax deduction or tax credit on your state income tax return for making such an investment. You should consult your own tax advisor and your state's rules and restrictions.

If your granddaughter or grandson is already in college, the best way to cover their expenses would be to make a payment directly to the college or university that your grandchild attends. Such a "gift" would not be subject to the annual gift tax exemption limits of $14,000 which would otherwise apply if you gave the money directly to the grandchild. Thus, as long as the gift is for education expenses such as tuition, and if the payment is made directly to the college or university, the annual gift tax limits will not apply.

As with all financial gifts, it's important to consult with your estate planning attorney and financial advisor who can help you look at the big picture and identify strategies which will best serve your loved ones now and well into the future.

Fun Facts

Enraged by the recent passage of the Kansas-Nebraska Act, Alvan Bovay convened a meeting at a schoolhouse in Ripon to create a new political party that would defend against the expansion of slavery. It was during this meeting, on March 20, 1854, that the Republican Party was established. – *history.com*

Holiday Closings at Wilson Law Group

Thursday, November 27th & Friday November 28th	Closed in observance of Thanksgiving
Wednesday, December 24th	Closed at noon
Thursday, December 25th & Friday, December 26th	Closed in observance of Holidays
Thursday, January 1st	Closed in observance of New Year's Day

Upcoming Workshops

Remember, you can register online at wilsonlawgroup.com or by calling our office 608-833-4001.

LegalVault
October 23, 6:30 – 7:30 p.m.

Trustee Training – The Trust Process
November 6, 6:30 – 8:00 p.m.

Trustee Training – The Administrative Process
November 13, 6:30 – 8:00 p.m.

Have You Done Your Homework? *enrolled members only*
December 4, 6:30 – 7:30 p.m.

This Month in History

October 8, 1871 - The Great Fire of Chicago erupted. According to legend, it started when Mrs. O'Leary's cow kicked over a lantern in her barn on DeKoven Street. Over 300 persons were killed and 90,000 were left homeless as the fire leveled 3.5 square miles, destroying 17,450 buildings. Financial losses totaled over $200 million. – historyplace.com

Birthday - Eleanor Roosevelt (1884-1962) was born in New York City. She was the wife of President Franklin Delano Roosevelt, 32nd U.S. President. As First Lady, she led an unprecedented independent life, striving to improve the lives of people all over the world. In 1933, she became the first wife of a president to give her own news conference in the White House. She traveled extensively on her own and was affectionately called "First Lady of the world." She served as a U.S. delegate to the United Nations for many years and helped write the Universal Declaration of Human Rights. – Historyplace.com

Farmers' Almanac 2015 Winter Forecast

After the frigid, bitterly cold, and snow-filled winter last year, many of you are wondering just what this winter might bring. Could it possibly be as bad as last?

According to the 2015 edition of the *Farmers' Almanac,* the winter of 2014–15 will see below-normal temperatures for about three-quarters of the nation. A large zone of very cold temperatures will be found from east of the Continental Divide east to the Appalachians. The most frigid temperatures will be found from the Northern Plains into the Great Lakes. The coldest outbreak of the season will come during the final week of January into the beginning of February, when frigid arctic air drops temperatures across the Northern Plains to perhaps 40 below zero. As the frigid air blows across the Great Lakes, snow showers and squalls will drop heavy amounts of snow to the lee of the Lakes.

No region will see prolonged spells of above-normal temperatures; only near the West and East Coasts will temperatures average close to normal.

Over the eastern third of the country, we are expecting an active storm track with a number of storms delivering copious amounts of snow and rain. Near-normal precipitation is expected for the Pacific Northwest, the Southwest States, and Northern Plains, while below-normal precipitation values are forecast for the Southwest States as well as the Upper Midwest and the Great Lakes. The Central and Southern Plains are expected to receive above-average precipitation.

We are "red flagging" the first 10 days of January and the first week of February along the Atlantic Seaboard for active wintry weather featuring bouts of heavy precipitation and strong winds. Another red flag timeframe for widespread wintry conditions is the middle part of March from the nation's midsection to the East Coast.

***Potential El Niño is an Uncertain* Element A**s we were putting the finishing touches on this year's long-range projections, the National Oceanic Atmospheric and Administration issued an official El Niño watch. An El Niño is a warming of the central Pacific once every few years, from a combination of wind and waves in the tropics. It shakes up climate around the world, changing rain and temperature patterns. An El Niño could result in more rain this winter for drought-stricken California and Southern States, and a milder winter for the nation's frigid northern tier. El Niños are usually strongest from December to April, but there's no guarantee that we will see one this winter. We'll just have to wait and see, but in the meantime, all of us at the Farmers' Almanac suggest you stock up on firewood, sweaters, and hot cocoa. It certainly looks like another long winter of shivery and shovelry is on tap. – *farmersalmanac.com*

Joan Rivers' Estate Plan: $150M to Daughter, Grandson, Dogs

Daniel Taylor, Esq. on September 19, 2014

Under late comedian Joan Rivers' estate plan, the majority of her of $150 million fortune will reportedly pass to her daughter Melissa and grandson Cooper.

However, Rivers also made sure to include plans for her four dogs in her will, reports the *New York Daily News*. Though the $35 million New York City apartment Rivers lived in with her dogs is being sold by her daughter, Rivers' plan likely made sure that her longtime assistant Jocelyn Pickett -- who will act as the dogs' caretaker -- will have no trouble maintaining the dogs' upscale lifestyle.

Although your estate may be substantially smaller, how can you nevertheless ensure that your loved ones, and even your pets, are taken care of after you're deceased?

Can We Talk ... About Estate Planning?

Along with providing individuals the legal power to plan for their own medical care or end of life decisions in the event they are incapacitated, estate planning is also generally used to give individuals a similar power over the transfer or distribution of their money, property, and other belongings after their death.

This is usually accomplished through use of a will -- a legal document describing how and to whom particular items or a person's entire estate shall pass -- or the use of trusts, a more complex type of estate planning tool allowing greater flexibility, control and potential tax savings.

In some cases, a person may wish to use both a will and trusts. In other cases, a person may die without any estate plan in place, in which case their property passes under the terms of the state's intestacy laws.

Can You Include a Pet in Your Estate Plan?

If, like the late Joan Rivers, you have special pets that you wish to include in your estate plan, simply naming your pet in your will may be problematic, as pets generally can't own property. In light of that fact, many states have passed laws allowing for the creation of special trusts for pets called pet trusts.

Pet trusts generally name both a trustee and a caretaker for the pet, with the trustee given the power to dispense funds from the trust for use by the caretaker.

If you need to get started on an estate plan, or add a pet trust to an existing estate plan, an estate planning lawyer can advise you on the different legal options in your state.