

Cover Your Assets

Tax, Business, Medicaid and Estate Planning

Dear Friends,

In the last year we have received an unprecedented number of inquiries from clients and financial advisors about asset protection planning. We are witnessing a growing concern in our society, as a whole, about the destruction of wealth by lawsuits, divorces, nursing homes, disabling injuries, etc. In the lead article which I have written for this issue, I cover a potent tool (Heritage Trust) for protecting wealth moving from one generation to another. We have just published a new summary of Heritage Trusts and their operation and would be glad to send that to you if you give our office a call.

In the next issue of this newsletter we plan to examine strategies you can use for protecting the assets you already own and which could otherwise be seized by creditors.

C. Christy Barton

What Do You Have To Lose?

EVERYTHING! Is there any way to protect your assets from lawsuits, nursing home costs, divorces and frivolous spending by your children (or grandchildren) and their spouses? The answer is a qualified *yes*, but traditional estate planning approaches provide no asset protection at all.

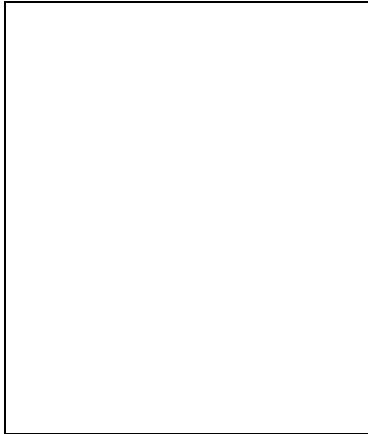
In our experience, we find that most parents will pass their assets on to their children, at death, in an outright fashion. What could be wrong with that? Plenty! Ask yourselves these questions:

- Is it possible that my daughter and son-in-law will ever get divorced?
- Does our son's wife spend money more freely than we think she should?
- Do any of our children spend a quarter for each dime they receive?
- Are any of my children engaged in a high-risk occupation (such as being a doctor, lawyer, accountant, business owner, stockbroker, farmer, financial planner, nurse, engineer, veterinarian, insurance agent, real estate agent, etc.)?
- If my daughter outlives me but dies before her husband does, is there even a remote possibility my son-in-law will remarry and his next wife will end up with everything my daughter inherited from me?
- Is it possible one of our children could get sued in the future on account of an automobile accident or an injury sustained by a visitor at her home or a trespasser on her farm?

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C. Christy Barton
Attorney at Law

“We appreciate the fact that your firm always has someone available to give assistance, no matter what questions are asked. There is a very friendly, courteous and professional atmosphere present at all times.”

- D.C. and D.C., Columbia, MO

“We really appreciated the time that the staff spent personalizing every last detail of our estate plan.”

- J.P. and L.P., Kahoka, MO

Action to take: If your estate plan does not presently create Heritage Trusts for your descendants, I urge you to consider adding such a powerful component to your plan. Similarly, if you would like to have a protective wrapper around the inheritance you are likely to receive from a still-living parent, visit with your mother and father about it. (Incidentally, for readers who are clients of ours and who have already set up a Generation-Protection Trust in the past, you need not take any action at this time because a Generation-Protection Trust and a Heritage Trust are the same thing.) After all, what do you have to lose?

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- What would happen to our son’s inheritance if he becomes disabled either before or after we pass away?

These questions are often ignored when most parents, grandparents, aunts and uncles design their estate plans. Given a choice, hardly any of you would prefer to have your beneficiaries lose their inheritance from you as a result of divorces, other lawsuits, disability, free-spending spouses, etc., but you may have assumed that it is not realistically possible to protect an inheritance (and those who will receive it) in a user-friendly, affordable fashion.

An elegant mechanism for protecting your loved ones’ inheritance, while giving them as much control over the inherited assets as they could ever need, is what we call a “Heritage Trust”. The principal goal of a Heritage Trust is to protect a beneficiary’s inheritance so that the protected resources may be used only by, or for the benefit of, the beneficiaries you have selected. In fact, that is the structure I am using in my own estate plan to protect the inheritance my children will receive from my wife and me.

Similarly, if you expect to receive a significant inheritance from your parents or other relatives in the future, they can create a Heritage Trust *for your protection* in their own estate plans. That way, you can experience and enjoy a level of financial security which would not be available to you if you are the recipient of an outright distribution of resources. Please understand, though, that only your parents (or other benefactors) can create this protective shield for you while at least one of them is still alive.

From the Mailbag:

I don't have a taxable estate any more, so do I even need my trust?

Absolutely. Please remember that estate tax planning is only one component of a solid estate plan. The value of your estate may go up and down, but a well-designed trust (like the one we prepared for you) will still provide important benefits that you would not otherwise enjoy, especially if you are married. If there ever comes a time when trusts no longer provide value or become counter-productive, we will address that in this newsletter. Until that time, rest assured that a trust is still the preferred foundation for most estate plans.

Another Year – Another Tax Law

Despite the predictions of many observers after last November's election, this year's new tax law (which President Bush signed on May 28th) does *not* affect the existing federal estate, gift and generation-skipping transfer (GST) tax laws, nor does it address the so-called "sunset" provision in the 2001 Tax Act. In our August 2001 newsletter we pointed out to our readers that the 2001 Act abolishes the federal estate tax in 2010, but the sunset provision in that Act will cause the estate tax to be reinstated in 2011 (with an exemption of \$1 million). Given the staunch opposition to the future repeal of the estate tax and the failure of the new tax law to eliminate the sunset provision in the 2001 Act, it is virtually impossible to accurately predict today whether the estate and GST taxes will actually go away after 2009 (and stay away). So, for those of you who are looking for some certainty about the future impact of the federal estate tax, you will not find it in the new tax law.

Client Appreciation and Continuing Education Seminars

One of the rewarding aspects of our business is getting to know you. Very few law firms can take pride in having such wonderful clients as we do. As a result, we are always looking for ways to show our gratitude. One of these ways is by holding a Client Appreciation seminar for your benefit. These seminars, while providing valuable information, have almost a reunion-like atmosphere as they allow us to continue building our relationship with you.

Be sure to mark your calendar now for the appropriate date and location listed below. (Feel free to notify friends and family who also may benefit from attending such a seminar.) In our next newsletter we will give you an overview of the subjects to be covered at the client seminars. The continuing education program topics will be summarized in a separate mailing to financial advisors.

Missouri Seminars Location

Capitol Plaza Hotel
Missouri Blvd. and McCarty Street
Jefferson City, MO

**Reservations
Recommended
1-800-636-6187
or
445-7350
(in Columbia)**

Iowa Seminars Location

West Des Moines Marriott
I-80 and 74th Street
West Des Moines, IA

Client Appreciation Seminars

Missouri — Friday, October 17, 2003 at 7:00 P.M.
Iowa — Wednesday, November 5, 2003 at 7:00 P.M.

Continuing Education Seminars for Financial Advisors

Missouri — Friday, October 17, 2003 at 9:00 A.M. and 1:15 P.M.
Iowa — Wednesday, November 5, 2003 at 9:00 A.M. and 1:15 P.M.

Return Service Requested

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Outside the Assets

Christy, Brett and Sherry were extremely busy during the month of May. The three of them spent the first weekend in Austin, Texas attending the spring conference of the American Association of Trust, Estate and Elder Law Attorneys. Christy was one of the featured speakers at this conference and his presentation on leading-edge asset protection planning was well received.

The second weekend found the Bartons in Kansas City for the wedding of their daughter, Elise. The wedding was a great time and exceeded everyone's expectations (even the bride's!).

Brett continues his quest to become a top-notch table tennis player by competing in tournaments in Hutchinson and Overland Park, Kansas and Springfield, Missouri. The Show-Me State Games in Columbia the last weekend in July will give him the opportunity to defend his home turf.

Congratulations to Elaine Asmus! On July 7th she will have been with the firm for six years. This may not sound like a long time to most of you, but you have never had to work with the Bartons! In all seriousness, we have been very blessed to have such a fine paralegal on our team.