

WILLMS, S.C.

LAW FIRM

CLIENT NEWSLETTER DECEMBER 8, 2011

The holiday season is here again. Whether it is gathering everyone together around a Thanksgiving table or rushing out to find the last-minute gifts for everyone on our shopping lists, thoughts of family are at the forefront. For those of us who are fortunate enough to be able to provide for our loved ones (financially and otherwise), we try to find a moment amidst all the chaos to be thankful for what we have. Therefore, in the spirit of this season, this year-end update focuses on ways to foster unity in our families and stability in our financial affairs.

Preserving the Wealth

Many, many of our clients have put in long hours and sacrifice over the years in order to create a level of financial security for themselves. We enjoy seeing these clients build the lives they want and then pass it on to their children and grandchildren. Wealth passed on to children can fund college degrees, pay for new business start-ups, or provide the down-payment for a first house. But will the wealth actually be put toward those things? How do we help children and grandchildren who inherit wealth put that wealth to its best use, instead of seeing it dissipate in a matter of months? We have attached to this newsletter two articles that discuss these important questions. The first article, "Goodbye, Family Fortune," ([CLICK HERE](#)) advocates the approach of using a strong financial education system for heirs. In order to avoid the common pitfalls of a family fortune quickly dissolving, the idea is to make the entire family join as one cohesive unit on a regular basis like a business to learn the family's goals and the best way to achieve those goals. This is an approach that works well for many families, and one that we have assisted clients in developing.

The second article, "Using an Inheritance to Teach Your Problem Child a Lesson," ([CLICK HERE](#)) discusses strategies for encouraging heirs to engage in responsible behavior. It describes the types of incentive provisions that can be written into trusts to reward heirs for good behavior such as pursuing higher education or seeking full-time employment. Please let us know if you have any questions about the strategies discussed in either of these articles.

Encouraging Family Harmony

Preserving wealth is a very important goal, but we also want to make sure that the family members get along with one another at the end of the day. For families who have real estate or business assets that are being passed down the generations, this means engaging in planning for the distribution and management of that asset. To that end, we have attached an article in which several of our clients have expressed interest. The article, "Create a Plan to Pass On the Family Cottage," ([CLICK HERE](#)) discusses the benefits of

using an LLC to manage and protect a family vacation cottage, but LLCs are certainly not the only way to do this.

Protecting Estate Assets From Creditors

In order for an estate plan to carry out its intended objectives, there must be an estate to be distributed. Likewise, the estate assets cannot provide for intended beneficiaries if those beneficiaries' creditors, ex-spouses, etc. are able to latch on to those assets. Therefore, we have provided an article written by Atty. Maureen O'Leary entitled, "Asset Protection Planning," (found on the Articles page of our website) which compares numerous estate planning tools for their effectiveness and efficiency in given situations.

Legal Update

Our final note is an update from the Tax Court. Many of our clients are familiar with "Crummey" withdrawal powers for irrevocable life insurance trusts. In order to qualify for the annual exclusion, the trust beneficiaries must be notified each year of their right to withdraw funds from the trust. So what happens when clients forget to do this? A recent decision by the Tax Court ([CLICK HERE](#)) held that taxpayers are in luck because they could still qualify for the annual exclusion in absence of the notices. However, this is only likely if the taxpayer can afford the cost of litigating the issue against the IRS. Sending the annual notices to beneficiaries is still much less expensive and time consuming, and we strongly encourage you send these notices if you are making contributions to an irrevocable insurance trust.

We hope you find the information included in this Update helpful. Please do not hesitate to contact us for more information about the topics in this newsletter.

Sincerely,

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If you would like to stay up-to-date with the latest developments at Willms, S.C. through LinkedIn, please visit Andy Willms' LinkedIn page by clicking [here](#), Maureen O'Leary's page by clicking [here](#), and Jessica Bourke's LinkedIn page by clicking [here](#).