LEGACY LAW FIRM, P.C.
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LEGACY CORNER

This Corner is where law, life and legacy intersect with fun! For us, Legacy is about living better and fuller every day. There is no reason to do a complete makeover to make 2017 a year to top the rest! Let's be doers and stop setting things aside for "another day."

Try some of these **Better You Challenges**:

1. **FIND A WORK/LIFE BALANCE.** Leave work at the office or in the field. Create memories with your loved ones and make sure you are fully present at the dinner table or during playtime at the park. Show both your family and your co-workers respect and gratitude for all they do.
2. **BRING HEALTHY BACK.** Focus on your health this year. Try less soda and more veggies. Even if you aren't a gym member, there's an app for almost any exercise that makes you break a sweat. Challenge yourself to feel better with small steps toward a happier and healthier you. Check with your doc to make the most of your healthy goals!
3. **ENJOY YOURSELF.** It isn't selfish to occasionally sit down with a good book or make travel plans with friends and family. By rejuvenating your spirit, the not-so-quiet times of life will be much more pleasant!
4. **GET CRAFTY.** Engage your brain with fun this year. Take a knitting class. Scrapbook your heart out. Dust off your tools and start the woodworking project you keep putting off. Just have fun and kick your imagination into full gear.
5. **DO YOUR PLANNING.** It's always a good time to get your legal planning done. Who will take care of your family if you become incapacitated or pass away? Why wait to turn your dream of opening your own business into a reality? Is your parent making plans for their long term care? By preparing for the future and seeking guidance from an attorney specializing in estate planning, business planning and elder law, you are caring for your family, your business, your dreams, and your legacy.

Challenge yourself to create new opportunities for you and your loved ones. Make 2017 epic by meeting life's challenges and making them opportunities for a **Better You**! You and your family are worth it!

LEGACY NEWSLETTER

KEEPING YOUR FAMILY HEALTHY, WEALTHY & WISE

ESTATE PLANNING TIDBITS | *Protecting A Child's Inheritance*

IN THIS ISSUE

A number of our clients have expressed concern about protecting the inheritances of their children. Sometimes they worry about the security of a child's job and what will happen if he or she loses that job in a tough economy, cannot pay bills, and loses the inheritance to creditors. Other times, they worry about the influence sons or daughters-in-law have over their children, and what would happen if their child got divorced. Some parents wonder if their children are mature enough to handle an inheritance and if they can make sound, long-term decisions on their own. Fortunately, there are a number of ways for you to leave an inheritance to your children and protect that inheritance against threats such as these and more.

In addition to their ability to avoid probate and minimize estate taxes, trusts are some of the most effective tools to protect your children's inheritances. Here are a few examples.

DISCRETIONARY TRUSTS

With these types of trusts:

- The trustee has complete discretion to determine trust distributions and the beneficiary cannot demand distributions.
- The settlor of the trust can provide guidance about distributions and withhold distributions if a child is facing divorce, bankruptcy and/or personal problems that may impact his or her ability to manage the inheritance wisely.
- Creditors cannot access trust assets.

SUPPORT TRUSTS

- The trustee is required to make distributions for health, education, support, or maintenance to the beneficiary if so desired by the beneficiary.
- Only certain creditors, known as "super creditors," can access the trust assets. Examples include child support/alimony payments, claims for services that "protected, preserved or enhanced the beneficiary's interest," and state/federal government debts such as tax liens.

SPENDTHRIFT TRUSTS

These trusts prevent the beneficiary from voluntarily or involuntarily transferring his or her interest in the trust and protect trust assets from most creditors, excluding the super creditors described above.

If you are concerned about protecting your children's inheritance against threats posed by creditors, predators, or even their own poor decisions, we can structure your estate plan to provide the level of protection ideal for your particular situation.

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"Planning is bringing the future into the present so that you can do something about it now." -Alan Lakein, American author and Time Management Expert

We plan to go on vacation. We plan to have dinner with friends. But when it comes to planning for how we will be taken care of as we advance in age, many of us prefer not to think about it, believing it will somehow all work out. Unfortunately, when it comes to long term care planning, including finding the appropriate care and figuring out how to pay for it, those who fail to plan are clearly the ones who risk losing the most.

Consider the scenario below which highlights a positive outcome due to choosing an early approach for long term care.

THE FACTS

Hank is 72 and Ellen is 69. They have been retired for several years and have started traveling a few times a year to visit their children and grandchildren who live in nearby states. During a recent visit, their oldest child asked them whether they had made any plans in the event one of them suddenly got sick. Hank and Ellen had not thought much about this since both of them were in good health. However, they agreed to seek some advice upon returning home to see what their options were.

Hank and Ellen own a home that they have lived in since their marriage 45 years ago, and they have checking, savings and CD accounts that total $325,000. They both worked most of their adult lives, carefully watching their expenses and never spending money on extravagant items they didn't feel they needed.

SCENARIO – HANK AND ELLEN PLANNING AHEAD

Hank and Ellen spoke with an elder law attorney, as they knew they should update their will and their powers of attorney. While there, they were surprised to learn that they could actually plan now to avoid running out of money in the future should they need long term care either at home or in a facility. With the help of their elder law attorney, they placed $200,000 and their home into a Medicaid Asset Protection Trust, and named their children as beneficiaries of the trust.

If needed, their children would be able to take a distribution from the irrevocable trust rather than using their own money for Hank and Ellen's needs.

The remaining $125,000 would be kept in a revocable trust that Hank and Ellen would use for their living and travel expenses. Ellen would apply for a long term care insurance policy to provide further protection for them should her health fail (Hank had applied previously but was denied). The $200,000 placed into the irrevocable trust would not be counted against them after 5 years, should either of them need long term care and the assistance of state benefits to pay for it.

Unfortunately, six years later Hank had a severe stroke and ended up in a nursing home unable to use his right side arm or leg. Ellen tried caring for him at home but was simply unable to. Ellen went back to see the elder law attorney for help. Because they had planned ahead and had set up an irrevocable trust, Ellen was able to keep all of the remaining cash assets in their revocable trust, and Hank was able to qualify immediately for state Medicaid benefits. The irrevocable trust (which had now grown to $215,000) remained in place but did not count against Hank since more than 5 years had passed and neither Hank nor Ellen had any direct access to the trust assets.

Ellen was incredibly relieved to know that she did not have to worry about paying for Hank's care and could instead focus on visiting him and providing as much support as possible to him. Although Ellen was not able to obtain long term care insurance, she has piece of mind knowing their children continue to manage the irrevocable trust and are ready to help both Ellen and Hank as needed.

If Hank did not plan ahead, more than half of his liquid assets may have had to be used in order to protect Hank's home, depending on the Medicaid rules in effect at the time. This would leave only $50,000 to transfer to the children (or to an irrevocable trust). And, if Hank did not have capacity to make any transfers or to establish an irrevocable trust, a guardianship proceeding would have to be initiated before any transfers could be made. Furthermore, the guardianship court would have to grant permission for such transfers to be made.

CONCLUSION

The scenario above has highlighted the importance of seniors and their loved ones planning early for the possibility of needing long term care. There are not only financial benefits to doing so, but also numerous non-financial benefits, including reduced stress on the family and peace of mind knowing that the family's needs are taken care of regardless of any health care crisis that may occur.

Our law firm helps families plan for their long term care needs, whether it is years in advance or after a health care crisis has occurred. We would be honored to work with you or the seniors and families you assist.

Selling Your Business To The Highest Bidder Is Not Necessarily The Best Option

If you own a business and have not put a succession plan in place, you might be thinking that the best choice, when the time comes to retire, is to simply sell your business outright to the highest bidder. However, selling your business to your employees may be a better option in certain situations through what is known as an Employee Stock Ownership Plan (ESOP).

Here's how an ESOP works. The company in question creates a trust on behalf of its employees. A portion of the profits are directed into the trust, which in turn uses the money to purchase the owners' shares. This purchase can take place over time or all at once. Employees can minimize the potential burden of the purchase by borrowing against future earnings, without incurring costs upfront.

How prevalent is the use of ESOPs in business transitions? There are currently more than 10,000 companies successfully using ESOPs. These companies include well-known, large firms, as well as smaller companies.

The decision to use this succession strategy depends on a variety of factors. For example, if you are interested in leaving a lasting legacy or rewarding the people who have worked for you over many years, an ESOP could be an excellent way to do so. There can also be tax benefits. If you sell more than 30 percent of the company to your employees, capital gains taxes are deferred, as long as the proceeds are invested in American companies. Furthermore, in companies where employees have a stake in ownership, studies have shown that productivity and profits improve.

Of course, there are risks to this strategy. For example, the long-term value of the firm, and its ultimate selling price, can fluctuate as a result of changes in the business, the economy and more. Nevertheless, for business owners looking to leave a legacy, reward employee loyalty, and reap tax benefits in the process, selling to employees could very well be an excellent option—a satisfying reward for taking the risks and putting in the hours necessary to build a successful business.