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Estate Planning Newsletter

ASSET PROTECTION FOR FLORIDA RESIDENTS

By Robert W. Tribuiani, Esq.
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Asset protection is the process of placing your assets out of reach of other entities or individuals (e.g., creditors, business partners, the I.R.S., ex-spouses). Think of asset protection as the process of building a fort around your assets in order to guard your family wealth from attack.

While asset protection has the goal of guarding your wealth from attack by creditors, please keep two things in mind: 1) there is no such thing as a completely “judgment proof” asset; and 2) the Florida Fraudulent Transfer Act allows creditors the right to reverse

transfers made with the intent to hinder, delay, or defraud its collection attempts. F.S. §726.105(1)(a).

An asset that is protected is not necessarily “judgment proof.” That is, a protected asset does NOT automatically become completely inaccessible to the collection practices of creditors. Debtors who do not know their rights, and therefore, do not assert them in a timely manner, will most likely lose their rights and possibly even the assets that they were intended to protect.

In recent years, creditors have become increasingly more aggressive, unethical, and even criminal in their tactics to collect money from debtors. As such, a well-designed asset protection plan will include the assertion of debtor’s rights against the

ASSET PROTECTION...

(continued from previous page)

unlawful collection tactics of creditors and their collection agents.

There are many asset protection devises available to Florida residents, including:

1. **Florida Homestead**
2. **Irrevocable Trusts**
3. **Joint Tenancy Property**
4. **Annuities**
5. **I.R.A.s**
6. **Life Insurance**
7. **401(k)s & Pensions**
8. **Disability Income (SSD)**
9. **Wages (head of household)**

With the goal of asset protection in mind, a permanent resident of Florida has several options available to him or her. But there are no guarantees. If you are not sure, have an attorney review your assets periodically to ensure that you are implementing the most effective asset protection strategy for your particular goals. *Robert W. Tribuiani, Esq., October 31, 2010.*

This article is not intended to offer legal advice. If you have any further questions, please consult an attorney.

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