



**Creating
A
Family
Legacy**

Topics

- **Estate and Asset Protection Planning—Intertwined**
- **Titling of Assets—Effect on Availability of Assets to Creditors**
- **Selected Asset Protection Strategies**
- **Asset Protection Trusts—Tennessee's Versions**
- **Case Study**

Estate & Asset Protection Planning Intertwined

- Estate planning
 - Management and distribution of assets
 - Health care and guardianship decisions
 - Expense and tax strategies
- Asset protection planning
 - Maximizing wealth preservation
 - Ensuring access to assets
- Titling of Assets

Property ownership and titling— Which assets are available to creditors during lifetime?

- Asset ownership—available to creditors during lifetime:
 - Individually owned
 - Joint Tenants with Right of Survivorship
 - Tenants in Common
 - Community Property
- Asset ownership—limited availability to creditors during lifetime:
 - Tenancy by the Entirety
 - Trusts
 - Entity (corporation, LLC, LLP)
- Assets by classification/product unavailable to creditors
 - Retirement Accounts
 - Life Insurance and Annuities
 - > Spouse or child may be required to be beneficiary
 - \$29 Accounts

Property transfers at death –Which assets are available to creditors at death?

- o **Method of property passing controls availability of assets to a decedent's creditors:**
 - **By title**
 - * **Examples: joint with the right of survivorship, tenancy entirely, community property with rights of survivorship (in some states)**
 - **By will (or intestacy).**
 - * **Examples: individual, tenants in common, community property, jointly owned without survivorship**
 - **By contract**
 - * **Examples: life insurance, 401(k), 403(b), IRA, TOD, POD**
 - **By Trust**
 - * **Revocable Trust**
 - * **Irrevocable Trust**
 - * **By-Pass Credit Shelter**

SELECTED ASSET PROTECTION PLANNING STRATEGIES

- Selected traditional asset protection strategies:
 - Transfer assets to other spouse
 - Tenancy by the entirety (some states)
 - Corporations, LLC's and LP's
 - Retirement Accounts
 - Life Insurance
 - 529 Accounts
 - Homestead exemption
- Trusts:
 - Spendthrift Trust (third-party created)
 - Tennessee Specific Asset Protection Trusts

Will

- A. Beneficiaries**
- B. Executor**
- C. Health Power of Attorney**
- D. Financial Power of Attorney**

Final Thoughts

- Asset protection and estate planning are dynamic processes
- Use asset protection planning selectively
- Ongoing review:
 - Goals and dispositive desires
 - Family changes
 - Ownership of assets and beneficiary designations
 - Effect of state and tax laws
- Fiduciaries:
 - Select carefully
 - Name successors
 - Organize records and prepare instructions
- Implementation is key