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?

- 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