

**RALPH MINTO, JR. & ASSOCIATES
&
WEALTH MANAGEMENT
ROUNDTABLE, LLC**

PRESENT:

**ASSET PROTECTION PLANNING
WITH CHARITABLE CONTRIBUTIONS**

WHAT IS ASSET PROTECTION PLANNING?

IT IS THE DELIBERATE AND LEGAL
ARRANGEMENT OF BUSINESS AND
PERSONAL ASSETS SO AS TO PLACE
THEM BEYOND THE REACH OF
CREDITORS.

WHY SHOULD WE USE ASSET PROTECTION PLANNING?

- 1. THERE ARE 42,000 LAWSUITS FILED EACH DAY, AND AS BUSINESSMEN OR BUSINESS COUNSELORS KNOW, THE COST OF LITIGATION IS STAGGERING, AND THE AWARDS ARE PREPOSTEROUS.**
- 2. BUSINESSES ARE VERY HEAVILY REGULATED AND RUNNING AFOUL OF A REGULATION CAN SPELL FINANCIAL AND PERSONAL RUIN.**

CONTINUED.

3. HAVING YOUR ASSETS IN A PROTECTED POSITION ALLOWS YOU TO DEAL MORE EFFECTIVELY WITH CREDITORS. BEING ASSET PROTECTED KEEPS CREDITORS, AND THEIR ATTORNEYS, FROM THINKING YOU'RE RIPE FOR THE PICKING AND INSTEAD INDUCES A MOOD OF SETTLEMENT, SAY FOR THE AMOUNT OF YOUR INSURANCE. IT PUTS YOU IN THE SETTLEMENT DRIVER'S SEAT.

Domestic Asset Protection Planning

- **Trusts are very similar in structure to foreign asset protection trusts in setup and operation.**
- **Currently available in Alaska, Delaware and Nevada and several other states.**
- **These states have passed laws that are intended to operate like foreign trust laws.**

Asset protection trusts used with CRATS and CRUTS

Example:

- Grantor, a resident of the Commonwealth of PA sets up a CRAT, using a Delaware asset protection trust, and then subsequently files for bankruptcy protection.
- Under Delaware law, which will be situs of the trust, and therefore the applicable state law for bankruptcy asset exemption purposes, the Grantor's interest in the CRAT is exempted from the bankruptcy estate.

Asset protection trusts used with CRATS and CRUTS

- Well the asset is exempt, but what about the payments to the Grantor while the grantor is in bankruptcy?
 - Bankruptcy Code section 541(c)(2) provides that a restriction on the transfer of a beneficial interest enforceable under state law is enforceable in bankruptcy. Therefore the payment to the Grantor, while the Grantor is in bankruptcy will not be included.

Asset protection trusts used with CRATS and CRUTS

- Well that may be true but won't the creditors still be able to take all of the post-petition payments from the CRAT?

No, Bankruptcy Code section 541(a)(5) provides that a post-petition payment will only be included if the debtor became entitled to the payment within 180 days of the filing of the bankruptcy petition but only if the payment results from a "bequest, devise or inheritance." A payment from a trust is not a bequest, devise or inheritance.

Asset protection trusts used with CRATS and CRUTS

- You should think very seriously about the use of asset protection trusts in charitable trust planning. At a minimum you should document that their use was presented to the client.

Thank you!

Please call Ralph Minto, Jr. if you have any questions pertaining to the matters presented today.

Ralph Minto, Jr.

Ralph Minto, Jr. & Associates

U.S. Steel Tower, Suite 5686

600 Grant Street

Pittsburgh, PA 15219

Telephone: 412-201-5525