Home Builders Association of Alabama

“Planning in Uncertain Times”

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INTRODUCTION
The New American Family in 2017

- Blended Families
- Women outliving men 4 to 1
- Having to deal with both elderly parents and dependent children
- 85 and older group is fastest growing demographic group

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What Do You As Clients Generally Want?

- Maintain control as long as possible
- Create financial independence and sufficient cash flow
- Have a great quality of life
- Preserve what you have through risk management
- Minimize taxes
- Avoid family disputes
- Leverage wealth in next generation through things like opportunity shifting
- Simplify your situation
- Give something back

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Why Do Most of Your Plans Stink?

- No personalization
- No integration with your business
- No counseling
- Documents are hard to understand
- Most Plans are inflexible and don’t accomplish your goals (but can be changed)
Good Planning Should:

- Reduce taxes
- Integrate with your business
- Be understandable
- Protect at every level
What Do Our Plans Do?

- Separate Control from Ownership
- Provide Divorce Protection
- Promote Family Harmony
- Protect Assets from Creditors
- Maintain Confidentiality
- Create Successor Business Plans
- Achieve Philanthropy Goals
- Minimize Income and Estate Taxes Efficiently
- Diversity Investments
Also Need to Consider the Soft Issues

- Prepare heirs for dealing with inheritance
- Minimize potential points of conflict – preserve family relationships
- Create flexibility (Key)
- Keep it simple
ASSET PROTECTION PLANNING

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Basics of Asset Protection

- “Control everything but own nothing”
- Set up legal devices before legal trouble
Avoid Bankruptcy at All Costs – Different Set of Rules
Transfer Assets to Others? Spouse?
Corporation vs. LLCs?
Consider converting corporation to LLC to obtain charging order protection
Retirement Plans
Life Insurance

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Strategies That Provide No Protection

- Joint Ownership such as Joint Tenancy with Right of Survivorship
- General Partnerships
- Revocable Trusts
Why Do Asset Protection?

- More lawsuits.
- Not being at fault is not a defense these days.
- Expensive and difficult/impossible to insure a lot of risks.
- Just good business practice. Never know when the economy may take a turn for the worse.
Benefits of Retirement Plans

- Flexibility of Spousal Rollover
- Stretch out benefits to Children and Grandchildren
- Significant Charitable Benefits
Benefits of Life Insurance:

- Cash Values can be Exempt from Creditors
- Tax Free Death Benefit
- Uncorrelated to Market Returns
- Accumulations Not Subject to Income Tax
- Tax Free Access to Cash Values
- Can Replace Income and Provide Assets

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MASTER LIMITED LIABILITY COMPANY

Holding Company LLC

- Single Member LLC
- Single Member LLC
- Single Member LLC

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**Spousal Access Trust**

Client \(\rightarrow\) Gifts / Sells \(\rightarrow\) Trust for Spouse, Children and Grandchildren

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**Beneficial Owner Trust**

- **Third Party**
  - Gifts Assets
  - Sells Assets

- **Client**
  - Trust for Client, Spouse, Children and Grandchildren

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Domestic Asset Protection Trust

- Requires trust company located in state of formation to serve as trustee
- Typically custody of some of the trust property has to be maintained in the state of formation
- Still subject to jurisdiction of U.S. federal and state courts
- Opportunity to use in estate and gift tax planning
- No international compliance issues
DOMESTIC ASSET PROTECTION TRUST

Client

Domestic Asset Protection Trust

Domestic LLC

Real Estate Business Interests

Domestic Trust Company

Trust Protector

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Should You Consider International Planning?

- Assets Held Outside of United States
- International Investing
Sobering Statistics

- Your children have a 1 in 2 chance of either getting divorced or going bankrupt.
- On average, it takes 19 months for an heir to go through their inheritance.
**Heritage Trust**

Will or Revocable Trust

Last Death of Client and Spouse

Child’s Inheritance

Trust for Child, Child’s Spouse and Child’s Children

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Client

- Retirement Plans
- Trusts for Spouse and Children
- Limited Liability Companies
- Life Insurance
- Self-Settled Asset Protection Trust

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BUSINESS SUCCESSION PLANNING

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What Are the Problems?

- 50% of Business Exits are not voluntary
- 80% of Businesses Below $50M in sales won’t be transferred and will have to liquidate
- Business Owners have 80% or more of their wealth tied up in their businesses
- 67% of Business Owners don’t know their options regarding succession planning
- 93% of Business Owners don’t have a clue as to what they want to do after exiting

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What Is Successful Succession Planning?

- Maximizes the value of your business
- Makes sure you are both personally and financially prepared
- Ensures you have a plan for life afterwards
Why Do Succession Planning?

- Control when and how you exit
- Maximize value of business
- Minimize, defer or eliminate taxes
- Create multiple options
- Reduce stress
- Ensure continuity of business for employees and the community
- Consider alternatives such as ESOPs
What Does Succession Look Like?

- Do you want to stop working or create enough flexibility in your current situation to enjoy life more?
- Do you have assets outside of your business or will you need to monetize your business?
- Will your money outlast you?
- Are there other owners in the business who want to exit as well?
Hard to time due to unexpected death, disability, disputes and the like.

Best to plan now. Some options take time to implement.

This is a process and not a one-time event.
Children inside and outside of business
Motivations of family members
Dealing with ghosts (in-laws)
ESTATE PLANNING

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Will the Federal Estate Tax Be Repealed?

- 100 Year Anniversary. Been repealed and reinstated five times.
- More social issue than economic issue.
- Replace with Tax on Appreciation.
- Act Now with Certainty vs. Future Uncertainty.