

Asset Protection Newsletter

"To think is easy. To act is difficult. To act as one thinks is the most difficult."

-Johann Wolfgang Von Goeth



Welcome to Our May 2013
Asset Protection Newsletter!

Can I title my marital assets to my spouse who has less liability exposure?

Having a less liability-prone spouse own all the marital assets has fewer drawbacks. And sometimes it is sensible to title the family assets to the less vulnerable spouse. But this too raises problems. You may title your million dollar home or other assets to your spouse for protection on the belief that your spouse won't get sued, but how do you really know this?

This arrangement also has estate planning disadvantages. When marital assets are titled to both spouses, the spouses can more advantageously plan their estates because each can use credit shelter trusts to maximize their death tax credits. When the assets are titled to only one spouse, only that spouse can claim his or her estate tax exemption. The remainder of your spouse's estate will be taxed. This can cost your heirs a considerable estate tax. Assets titled to only one



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[5-28-13 @ 1pm](#)

[Estate Planning Webinar](#)

[5-29-13 @ 1pm](#)

The Approximate Length for the Presentation is One Hour

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Important Changes in Florida Law

Latest update: In June of 2010, the

spouse forces a lopsided estate plan, and you lose tax planning options.

Nor are assets titled to one spouse necessarily safe from the debtor spouse's creditors. Even if the liability arose after the debtor's assets were titled to the 'safe' spouse, a creditor might successfully argue that the debtor-spouse has an equitable or beneficial interest in at least part of the property under a constructive or resulting trust theory; namely, that the spouse holding title is a trustee for the debtor-spouse. This argument is particularly likely to succeed when the debtor-spouse's funds purchased the property or paid the mortgage, maintenance or property upkeep. When the money invested in the asset came from the debtor-spouse, the property is not truly the property of the other spouse. If a debtor-spouse's assets are traceable to property, the defendant's spouse's creditors can claim that property. You don't want to gamble on further litigation over these sloppy issues. The best plan is free of these possible challenges. Only in a few cases do we suggest titling all the marital assets to one spouse.

What are the dangers of simply hiding my assets - perhaps in some offshore jurisdiction - and not revealing these assets to my creditor?

That's a common mistake. One must never confuse secrecy or concealing assets with asset protection, though to discourage lawsuits, financial privacy can sometimes be helpful. A judgment creditor can compel you to disclose your finances under oath.

You can't then rely on secrecy. Once under oath you must truthfully disclose your assets. It's perjury to lie to conceal your assets. You want honest protection. With a good plan you can fully disclose your assets, confident that they'll stay creditor-proof. A judgment creditor is entitled to full and honest answers about your present and past assets.

What happens if I die without a will?

Dying without a will means that you are dying "intestate." Your estate will be administered according to state law rather than your personal preferences. Florida State Law has an order of priority for the distribution of intestate assets as follows:

**If a testator dies with a spouse but no descendants (A

Florida Supreme Court held in *Olmstead v. Federal Trade Commission* (No. SC08-1009) that a charging order is not the exclusive remedy available to a creditor holding a judgment against the sole member of a Florida single-member limited liability company.

Be one step ahead, keep following our newsletter for up to date changes in the law!

Crazy Lawsuit of the Month

Woman sues night club after she falls out of a bathroom window trying to avoid a cover charge.

A woman in Delaware successfully sued the owner of a night club in a neighboring city when she fell from the bathroom window to the floor and knocked out her two front teeth. This occurred while the woman was trying to sneak through the window in the ladies room to avoid paying the \$3.50 cover charge. She was awarded \$12,000.00 and dental expenses.

Trending Asset Protection Article

Protect Yourself in Case of a Lawsuit

Litigation is America's fastest growing business because plaintiffs have everything to gain and nothing but a few hours' of time to lose.

[Click on this link to keep reading this article](#)

“descendant” is a person in any generational level down the descending line from the decedent and includes children, grandchildren, and more remote descendants), then the spouse gets the whole estate.

**If a testator dies with a spouse and one or more living descendants, the surviving spouse receives one half of the estate and the living descendants receive the remaining half.

**If a testator dies without a spouse but with one or more living descendants, the surviving descendants share in the whole estate.

**If a testator dies without a spouse or living descendants, the surviving parents share in the estate or if deceased, the brothers and sisters.

**Florida’s intestate laws will pass the decedent’s probate estate to other, more remote heirs, if the decedent is not survived by any of the close relatives described above.

Further, it must be noted that the distribution of the decedent’s (testator) probate estate under Florida’s intestate laws, is subject to certain exceptions for homestead property, exempt personal property, and a statutory allowance to the surviving spouse and any descendants or ascendants whom the decedent supported.

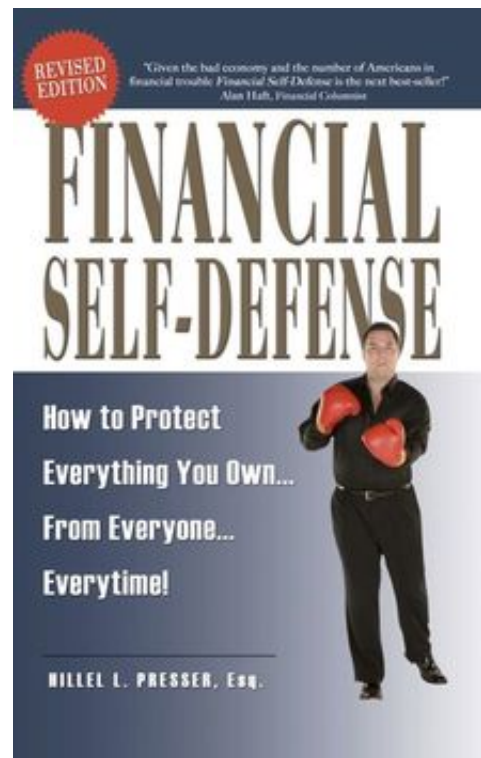
The Presser Law Firm, P.A. - Asset Protection Attorneys

The Presser Law Firm, P.A. represents individuals and businesses in connection with the establishment of comprehensive Asset Protection plans that incorporate both domestic and international components.

We help our clients protect themselves from lawyers, creditors, foreclosure deficiencies, former or current spouses, children, relatives, and greedy lawsuit-obsessed citizens. While many people can make money, few know how to protect it.

In addition to Asset Protection, The Presser Law Firm, P.A. represents individuals in the areas of business formation, legal and business counsel, estate planning, and estate administration (wills and trusts).

We have been featured in numerous newspapers and magazines, among them Forbes, Sports Illustrated, The Robb Report, The Houston Chronicle, and The Los Angeles Times. We have also appeared on several radio and television stations such as FOX, BRAVO, NBC, ABC, and CBS and have been profiled in the international press in Canada, Germany, Greece, Ireland, and the



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Refer a Friend!

If you know anyone that would benefit from this newsletter, please have them contact us at

Info@AssetProtectionAttorneys.com.

For every 60 minutes you spend making money, spend 60 seconds thinking about how to protect it!

United Kingdom. We have represented some of today's most well known business owners, celebrities, and professional athletes.

We have been working around the clock to improve our Firm's online presence to ensure that you receive the most up-to-date information on how to protect everything you own from everyone, every time. We will be constantly updating our social media with new cutting edge information, just click the links above to follow us.

If you know a colleague, friend, family member or anyone that would benefit from this important information, please have them contact us to be added to our newsletter!

Best Wishes,

The Presser Law Firm, P.A.
Asset Protection Attorneys

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561-953-1050 (w)

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800 Fairway Drive, Suite 340, Deerfield Beach, FL 33441, United States



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The Presser Law Firm, P.A.
Asset Protection Attorneys

800 Fairway Drive
Suite 340
Deerfield Beach, FL 33441

Info@AssetProtectionAttorneys.com
www.AssetProtectionAttorneys.com



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