The Perfect Marriage: Living Trust and LLC

By William Gibney, Esq.

If I could create a recipe for the perfect marriage between a man and woman, I'd be a billionaire. Who wouldn't dole out big bucks for a life of unblemished love, bliss, and harmony? Unfortunately, since everyone brings different ingredients to a human relationship, my one-size-fits-all recipe would fall flat.

But when it comes to protecting your assets, I do have a recipe for the perfect marriage. There are only two ingredients: a living trust and one or more limited liability companies (commonly called LLCs). This "asset protection pie" is fast, easy, and reliable.

Asset Protection Pie
First, make the crust with a revocable living trust. Roll out this sturdy legal structure as the foundation for your assets. Next, mix up the filling. Depending on the size of your pie, you'll need one or more flavors of limited liability companies to protect specific groups of assets such as real estate, stocks and mutual funds, and companies you own. Add the filling to the pie, cover with the top crust, and bake it for a few weeks. When it's done, your creditors won't be able to stick a fork in it. You'll savor the peace of mind, knowing you're protected from lawsuits, Uncle Sam, ex-spouses, business partners, bankruptcy court, and anyone else who craves a piece of your pie.

The Crust: Revocable Living Trust
A revocable living trust is the basic framework for any asset protection plan. The living trust has made simple wills obsolete because of its varied functions. It (1) provides the estate plan for leaving assets to your designated beneficiaries; (2) enables your heirs to avoid the long and costly process of probate; (3) eliminates or minimizes estate taxes; and (4) allows married couples to protect assets from creditors after the first spouse dies. Living trusts provide for a smooth transfer of your estate without the interference of the courts, lawyers, or unhappy beneficiaries and descendants. You dictate who receives your assets, when the assets are received, and under what circumstances. This is especially important if one or more of your heirs is chemically dependent, in trouble with the law, has creditor problems, or faces bankruptcy.

The Filling: Limited Liability Companies
The real asset protection, however, lies in the pie's filling. Your trust (the pie crust) holds the LLCs (the filling.) While it may look tasty, it is actually poisonous to anyone hoping to file a lawsuit against you. If you own high risk properties such as rental homes, I recommend forming a separate LLC for each property. Arizona's LLC

law mandates that a plaintiff can attach only the assets in the LLC that actually causes an accident or injury. For example, if you own three rental properties in separate LLCs and a tenant is seriously injured in one of the homes, only the assets of the LLC that owns the property would be at risk. The other LLCs would not be affected. But if you own all three homes in one LLC, all of the properties would be exposed for the tenant's personal injury claim.

If you drive a car, you are a moving target for lawsuits. If you cause a serious accident, all of your unprotected assets are at risk. You might consider adding your securities portfolio, your personal residence, vacation home, car, boat, or plane to your asset protection pie. You're the chef, so you're in control. As long as you include the two major ingredients, a revocable living trust and one or more LLCs, your dough will be protected.

Although the forgoing applies to most cases, this information should not be deemed a legal opinion, because every client's circumstances are different and could dictate varying applications of legal advice. Please consult an estate-planning attorney regarding your individual needs.

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