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CLIENT ALERT

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An Important New Asset Protection Tool:

The Ohio Legacy Trust Act

Ohio House Bill 479 was recently signed into law by Governor Kasich. This law permits the creation of a new type of trust in Ohio, the "Legacy Trust", allowing an individual to more effectively shield assets from future creditors.

Currently, if you create an Ohio Trust for your own benefit (e.g., retaining the right to income and/or principal), your creditors can reach the Trust assets. Starting March 27, 2013, you will be able to create a Legacy Trust for your own benefit and protect the assets of the Trust from the reach of future creditors. This can be an important planning tool, especially for professionals who have a significant amount of exposure to potential liability (e.g., accountants, attorneys, doctors, dentists, chiropractors, professional athletes, etc.). Additionally, this type of creditor protection could also be beneficial for individuals who would like to insulate assets from future medical expenses. A Legacy Trust could also limit the exposure of assets to a potential property distribution, spousal support order, or child support award in a divorce, as long as the Trust is put in place prior to marriage. This type of planning could be paired with, or even take the place of, a prenuptial agreement.

There are some limitations on the grantor's personal use of assets transferred to a Legacy Trust. The grantor may continue to have access to (1) the current income produced by the Legacy Trust assets and (2) principal distributed at the trustee's discretion or under a distribution standard. The Legacy Trust assets could also be used to pay any income tax obligations attributed to the Trust assets, as well as to pay debts, expenses, and/or taxes of the grantor's Estate after his or her death. The Legacy Trust must have a third party trustee serve over the Trust at all times, but the grantor may retain the power to remove and replace the third party trustee at any time.

It is important to understand that the Legacy Trust cannot protect you from all creditors. To be effective, the proper planning of many issues involved in the implementation of a Legacy Trust is essential. Those who plan ahead and strategically use a Legacy Trust as part of their estate plan will benefit; not those who wait -- it is important to plan before any type of creditor protection is necessary.

Please call any of the attorneys in our estate planning and probate practice group (pictured to the left) for more information.