

Report From Counsel

Insights and Developments in the Law

Spring 2023

Child Support Enforcement Is Complicated

What is Child Support?

In simple terms, child support is a type of payment that one parent may be ordered to give to the other parent in order to help them pay for the costs of rearing a child. The exact amount of money that the court might grant to a custodial parent by the court is dependent on a number of factors, including the income of both parents and whether the non-custodial parent has any additional financial obligations to other biological children that may impact their ability to pay child support.



Alan Plevy

Child Support Enforcement

There are state statutes that allow governmental agencies to help you collect child support from a parent who refuses to pay in accordance with a court order. Typically, the attorney serves your child's other parent with papers. On these papers are instructions to meet with the district attorney in order to set up a payment arrangement. The document states that if the person fails to follow those instructions, jail time could

be imposed. This can sometimes be counter-productive, since imposing jail time means the person is not working and earning money. So, usually imposing jail time is saved as a last resort.

Why Would You Need Child Support Enforced?

Under normal circumstances, there is no need to enforce a child support order, as most non-custodial parents will generally comply with the order. However, some parents may be reluctant to pay child support for a child who doesn't live with



Kyung (Kathryn)
Dickerson

them full time, or may decide they do not want to pay out of spite. In these cases, it may be necessary to call upon legal resources to have the child support order enforced, obtaining the required payments whether or not the non-compliant parent wants to pay.

How Can You Get Child Support Enforced?

In order to get a child support order enforced under the Child Support

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SmolenPlevy In the News

Featured on Fox 5 DC: Principal Jason Smolen shared four estate planning documents that every college student should have in case of emergencies. Watch here: https://youtu.be/_yzC7lklGRE

Featured on Fox 5 DC: Principal Alan Plevy offered insights on how mediation can help divorcing couples sort out their differences outside of the courtroom. Watch here: https://youtu.be/t9D_1A3LUxk

SmolenPlevy In the Community

Daniel Ruttenberg raised over \$50,000 for the public charity, Devotion To Children through his 12th Annual Cards4Kids Charity Poker Tournament.

Arlington Magazine named Jason Smolen, Alan Plevy and Daniel Ruttenberg 2022 "Top Attorneys."

How Could Federal Estate Taxation Affect You?

When a loved one passes away, it is important to ensure that all of his or her affairs are in order. This includes paying any debts, as well as paying any necessary federal and state taxes required on an estate. This is known as the estate tax.

What Is the Estate Tax?

In simple terms, the estate tax is a federal tax placed on all estates over a certain total valuation. As of 2022, that amount is \$12.06 million for unmarried individuals, and \$24.12 million for married couples.



Jason
Smolen

Once the estate's assets exceed that base valuation, the federal government will impose a graduated tax rate on all assets from the estate, up to a maximum of 40%. Obviously, this can have a substantial effect on your estate if your estate's total valuation goes above the federal exemption, and significantly reduces the inheritance your heirs will receive when you pass away.

How Can Someone Know if the Estate Tax Will Affect Them?

Unfortunately, determining whether you may qualify for the estate tax is not as simple as just adding up the total value of all of your assets and seeing if it goes above the federal estate tax exemption. Certain types of assets are not counted towards that limit, and there are deductions you can make to reduce the overall value of your estate. These deductions include, but are not limited to:

- Certain outstanding debts
- Legal and administrative fees
- Funeral costs
- Charitable bequests
- Money paid towards satisfying state taxes

What Other Tax Issues Can an Estate Face?

In addition to the estate tax, there is also a gift tax, which limits how much money or property can be gifted to any one person per year. For 2022, that amount is \$16,000 per person. In addition, all estates are subject to the tax laws of whatever



Daniel
Ruttenberg

state the estate was established in, meaning you may face additional tax liability

What Ways Do People Have to Minimize the Effect of the Estate Tax?

There are a number of ways that people can potentially protect their estates from the estate tax. A common method is to place money or property from the estate into a trust, where it can be protected from both taxation and debt collection. Other methods also exist, but to know what may work best for you, you should speak to a lawyer with experience handling estate law matters, who can advise you on your best course of action.

If you have additional questions, contact Daniel Ruttenberg at dh Ruttenberg@smolenplevy.com and Jason Smolen at jdsmlen@smolenplevy.com.

Child Support Enforcement Is Complicated

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Enforcement Act, you first need to speak to your local Division of Child Support Enforcement and tell them that the child's other parent is not paying their child support. At that point, they can send a notice to the non-paying parent notifying them that they are required to pay child support, and that they can negotiate a payment plan. If they refuse or fail to comply, the Division can then seek to have the non-paying parent held in contempt for failing to comply with the terms of the child support order, which would result in them being jailed.

Should You Get Child Support Enforced?

Even if it might seem like a good idea on the surface, having child support enforced is not always for the best. Under certain circumstances, having someone jailed for failing to pay child support can result in them being unable to pay, due to lost income and potentially the loss of their job. Thus, this mechanism should generally be used sparingly, and only when it is appropriate to compel child support payments.

If you need assistance regarding child support, contact Alan Plevy at abplevy@smolenplevy.com or Kyung (Kathryn) Dickerson at kndickerson@smolenplevy.com.

Five Ways Restructuring Your Business Could Help You

The past year has been difficult for almost everyone, but business owners in particular have felt the economic squeeze from the coronavirus pandemic. Between dealing with quarantine restrictions and complying with social distancing guidelines, as well as keeping businesses sanitary, it may have been difficult just to get by. However, for some businesses, restructuring can help ease some of the pressure. Here are five ways restructuring your business could help you:

1) It could help lower your tax burden

Different types of businesses are taxed differently. Depending on how your business is organized, you may find yourself paying more taxes than you need to. Restructuring may substantially reduce the amount of money you owe in taxes every year.

2) You can eliminate redundant bureaucracy in your business

Businesses often accrue layers of unintended bureaucracy. This is especially a problem for businesses that have grown substantially over time, as your business structure adds layers of bureaucracy to accommodate that growth. Through restructuring, you can trim some of that bureaucratic fat, making your business more efficient overall.

3) You can lower operational costs Many operating costs are simply

part of running a business. However, some costs only seem unavoidable, and can be cut with proper restructuring. This can lower your operational costs, making it easier for you to turn a profit.

4) You can become more competitive in the new economy

Many businesses were not

prepared for the economic impact of COVID-19. Their business models were also not well-positioned for our post-COVID world. Restructuring your business can make it more competitive in this new economic environment, allowing it to survive and thrive well into the future.

Is a Living Trust Right for You?

A living trust, which is also known as an inter vivos trust, is a type of testamentary instrument that is used by some people as an estate planning tool. A living trust can provide significant benefits and avoid many legal difficulties further down the line. But how do you know if a living trust is right for you and your circumstances?

What Is a Living Trust?

A living trust is, like all other trusts, a type of legal arrangement where one person (known as a grantor or settlor) places their assets in the care of another person (known as a trustee) on behalf of a named beneficiary. The trustee has a legal responsibility to manage the grantor's property while it's in their care.

However, the living trust is revocable, meaning the grantor can freely move property in and out of the trust while

they are still alive. Also, the primary beneficiary of a living trust is the grantor themselves while they are still alive.

What Are the Benefits of a Living Trust?

The assets held in a living trust are shielded from many types of taxation, avoiding issues related to estate taxes and gift taxes.

However, for estate planning purposes, one of the biggest benefits is that a living trust automatically converts to a testamentary trust upon your death. This means you do not need to set up any additional arrangements to ensure the assets held in the trust are distributed the way you want them to be. In addition, assets held in a trust are considered non-probate, meaning they avoid many of the costly and

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Understanding the Complexities of Equitable Distribution in a Divorce

For just about everyone who goes through a divorce, equitable distribution is one of the most difficult and contentious issues they need to deal with. In addition to being emotionally fraught, the process of distributing marital property can be legally and factually complicated, and it can be difficult for people to wrap their heads around. So, what is equitable distribution, and what can you do to make things easier for yourself?

Explaining Equitable Distribution

Depending on the state, the division's classification of property varies markedly. In simple terms, equitable distribution is when the marital property of a divorcing couple is divided between both people. The key word in the phrase is "equitable": the property is not simply divided evenly between the two, but is instead distributed based on what the judge believes is most appropriate. Depending on a variety of factors, a judge can choose to divide the property in an uneven way, granting one side or the other a vastly larger amount of marital property and leaving the other with next to nothing.

Factors Involved in Equitable Distribution

A judge considers a variety of factors when determining how much property to give each spouse. Such factors include the length of the marriage and how much money or property each

spouse contributed to the marital estate. However, it can also include other factors like non-financial contributions to the marriage. A judge may also consider allegations of adultery and waste of marital property to pursue that adultery, in making their determination.

Identifying Marital Property

Aside from all of the factors listed above, there is also the more basic question of what constitutes "marital property" for the purposes of division. This is more complicated than it sounds, since not everything the couple owns will be considered marital property. It is very important to determine what counts as marital property and what does not.

Sorting Out Marital vs. Separate Property

As a general rule, anything co-owned by the spouses, such as a family home or shared bank account, will be considered marital property subject to equitable distribution. Things like family heirlooms, inheritances, and other property separate from the marital property can be considered the separate property of each individual spouse. However, separate property can become marital property if it is intermingled, such as if a spouse deposits their inheritance in a shared bank account. Ultimately, sorting out these issues can be difficult, which is why you should contact a divorce lawyer, who can assist you in your case.

Is a Living Trust Right for You?

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time-consuming hurdles that are normally involved in distributing property from a person's estate.

What Are the Downsides of a Living Trust?

Unfortunately, a living trust is not for everyone. Trusts have certain filing requirements they must meet to remain valid, which adds more expense and potential legal difficulties. Ultimately, though, the decision as to whether an inter vivos trust is right for you is a decision you should make with the advice of a lawyer.

Actual resolution of legal issues depends upon many factors, including variations of facts and state laws. This newsletter is not intended to provide legal advice on specific subjects, but rather to provide insight into legal developments and issues. The reader should always consult with legal counsel before taking action on matters covered by this newsletter.