

"He who wants a rose must respect the thorn." unknown

BURNS AND BURNS, P.C. IS AN AV RATED LAW FIRM THAT REPRESENTS MULTI-GENERATIONAL FAMILIES AND BUSINESS OWNERS WITH THEIR ASSET PROTECTION, REAL ESTATE, AND ESTATE PLANNING NEEDS.

Spousal Control and Community Property

Introduction

In many ways, marriage is similar to a merger between two large companies. Like merging companies, spouses too must address "merger like" issues when deciding how a salary is to be shared and spent in a marriage. Further compounding these issues is the reality that spouses often come into a marriage already owning their own real estate or having amassed personal debts. As a result, understanding each spouse's rights concerning the other spouse's community property is important to the long-term financial success of the marriage.

Management and Control Rules

What decisions can be made by an individual spouse?

As set forth in A.R.S. §25-214, a spouse may acquire, manage, control or dispose of community property or even bind community property without first seeking the permission of the other spouse. As a result of this authority, if you have concerns regarding the financial decision making power of your spouse, you should consider engaging in marital property management to help protect your assets.

What decisions require the approval of both spouses?

While Arizona law does give great power to a spouse to act alone regarding the management and control of their community property assets, there are three (3) major areas where the approval of both spouses is required, namely:

- 1) For the acquisition, disposition or encumbrance of an interest in real property other than an unpatented mining claim or a lease of less than one year;
- 2) Any transaction of guaranty, indemnity or suretyship; or
- 3) To bind the community after service of a petition for dissolution of marriage, legal separation or annulment, if the petition eventually results in a decree of dissolution of marriage, legal separation or annulment.

Common Solution to Control Concerns

Since Arizona law provides an individual spouse with the power to manage and control their spouse's community property assets, many married couples have taken affirmative steps to protect their individual rights. Specifically, a common solution to mitigate spousal control concerns is to execute an agreement between the spouses setting forth each spouse's rights concerning community property. This type of management control planning is especially effective when:

- 1) One spouse owns real estate and the other spouse does not;
- 2) One spouse is the provider for the family; or
- 3) When one spouse has accumulated or has a history of accumulating credit card debt.

Whether or not you believe financial problems can be a basis for marital discord, the reality remains that effective financial and asset management are important characteristics of a healthy marriage. As a result, if you are desirous of learning how marital property management can be used to protect your assets from the impulse decisions of a spouse as well as from creditor claims, contact BURNS AND BURNS, P.C. Asset protection is a growing area of law and for good reason.

About the Author; Scott F. Burns, Esq.

Scott F. Burns, Esq. is an Arizona attorney. His clientele include professional athletes, business owners, and families desirous of protecting their personal and professional legacies through the use of asset protection strategies, tax planning, estate planning, and business consulting.

For Additional Information, Contact:
www.B-BLAW.com

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