BURNS AND BURNS, P.C.

AN AV RATED LAW FIRM

COMMUNITY PROPERTY LIBRARY

WWW.B-BLAW.COM

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.

"From the errors of others, a wise man corrects his own." Publilius Syrus

What is Community Property?

Introduction

Arizona is one of nine community property states. The other 8 community property states include: California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin. As community property laws can greatly impact an individual's long term financial security, knowing how the law works is critical.

What is Community Property?

The term community property describes property that is owned by the marital community. When property is owned by the marital community, both the husband and wife have an equal ownership interest in that property. More specifically, Arizona community property laws set forth that all property, other than separate property, acquired during the marriage by either spouse is presumed to belong to the marital community. For example, the wages of one spouse earned during marriage are presumed to be the community property of both spouses, although only one spouse earned the income.

What is Separate Property?

Separate property includes the following:
1) property acquired by either spouse prior to marriage;
2) property acquired during marriage by inheritance, will, or gift;
3) property acquired during marriage by spending separate property funds;
4) property acquired during marriage but after a service of petition for divorce or petition for legal separation has been filed, so long as the petition results in either the divorce or legal separation;
5) property that each spouse agrees to keep separate (e.g. a premarital agreement);
6) income from and the appreciation in value of separate property; and
7) personal injury recovery, but only for pain and suffering. (Recovery for medical expenses or lost wages during the marriage is considered to be community property.)

Community Property Presumption

The community property presumption is triggered upon: 1) the execution of a valid marriage; and 2) the obtaining of assets during marriage in a community property state.

BURNS AND BURNS, P.C.
Asset Protection, Estate Planning, and Real Estate Law
www.B-BLAW.com – Phone: 602.264.3227 Fax: 602.274.0103

Page 1 of 2

Community Property Scenario

<u>Scenario #1</u> – After getting married, a husband uses money he earned from his job to purchase the family home for cash while the wife uses a portion of the money she inherited to purchase a car for cash.

<u>Question</u> – Upon divorce, how would the house and car be divided?

<u>Answer</u> – The house is presumed to be community property since the house was purchased with cash from the husband's salary earned during the marriage. Since the car was bought with the wife's inheritance, the car is presumed to be her separate property. Therefore, absent comingling actions, the wife is entitled to a one half interest in the house while the husband is not entitled to any interest in the car.

Conclusion

Since community property laws can be complex and their application can greatly impact a person's rights, in the event of a liability issue, death or divorce, do not hesitate to contact BURNS AND BURNS, P.C. for all of your asset protection needs.

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

BURNS AND BURNS, P.C.
Asset Protection, Estate Planning, and Real Estate Law
www.B-BLAW.com – Phone: 602.264.3227 Fax: 602.274.0103

Page 2 of 2