Katie Calo Published in the Worcester Business Journal, 8 Things I Know About … Protecting Your Assets When Your Children Get Divorced

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1) Execute a prenuptial agreement prior to their marriage. A prenuptial agreement, if properly drafted and executed, can help ensure any property gifted or inherited by your children remains their separate property in the event of a divorce.

2) Absent a prenuptial agreement, completed gifts are marital assets. Any assets you give your children, which may include shares of a family business or property held in trust, can be considered a marital asset subject to division in a divorce. This may leave your business exposed to a claim by your child's soon-to-be ex-spouse.

3) How your children use gifted or inherited assets impacts how they are divided. If they are deposited into a joint account between your child and their spouse, a court is more likely to give their spouse a percentage closer to 50%. If the assets are held solely in your child's name and not utilized in the marriage, a court is likely to give their spouse less

4) Discuss with your estate planner. In addition to the financial and tax considerations, you should discuss how to best protect your assets in the event of a divorce.

5) Regular gifts or distributions to your children can be treated as income. If you consistently give your children and/or their spouse money or help them pay expenses, a court can consider this income when fashioning a child support or alimony.

6) Gifts to your grandchildren don't count. As long as your children are not in control of the money, it will not be classified as a marital asset in a divorce.

7) You could be forced to testify in your child's divorce. While a court must



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balance your right to privacy, you could be deposed or ordered to produce financial and estate planning information.

8) Do not transfer your assets, real estate, investments, or personal property (e.g., boats, classic automobiles, jewelry, collections, etc.) outright. Wait until your estate plan is in effect. Use the tools of the estate plan (wills and trusts) to transfer your assets upon your passing.

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