



Sabrina Winters
Attorney at Law, PLLC

How Filing Bankruptcy May Jeopardize the Inheritance Left to You By a Loved One

By Sabrina Winters, Charlotte Wills and Estates lawyer

There were recent reports that Wall-Street economist have declared the recession officially over.

I am not certain through whose eyes they determined this. I look around and still see far too many families struggling to recover to consider it over. And while I acknowledge things may be improving on some level, I still find it hard to objectively look at a parent who cannot find work or lost a huge chunk of a 401(k) plan to say our Country is officially in the clear.

The number of bankruptcies taking place right now equally saddens me. For many families, bankruptcy may be the only way to break free from the mountain of debt that constantly rests on their shoulders. Of course that's not to say this decision is ever taken lightly by those who file, as the consequences of bankruptcy are long-lasting and sometimes severe—especially if you stand to inherit money.

Example: a family member passes away who left you a cash gift in a will or trust. On the surface it seems like this would be a much needed and timely relief for a family going through bankruptcy. However, Federal bankruptcy rules declare that if you inherit money from a person who dies within 180 days of the date you filed for bankruptcy, you must tell the courts. In simple terms, that means the inheritance now becomes a part of your bankruptcy estate and will be distributed to your creditors as the courts see fit.

This also applies to items that you may inherit such as cars, jewelry or furniture. All of these items are subject to the administration of the bankruptcy estate. However, this doesn't mean that items like this are certain to go up on the auction block. You can claim exclusion on certain things and the bankruptcy trustee has a certain amount of discretion in choosing what to liquidate. However, it can be extremely stressful to think about a family heirloom that has been in your family for years going to auction.

Hopefully your loved one had a Charlotte wills and estates attorney who knew a thing or two about protecting their inheritance from things like bankruptcy, creditors, divorce and the like.

15720 John J. Delaney Drive, Suite 300
Charlotte, North Carolina 28277
(704) 843-1446
www.ncestateplanninginfo.com
swinters@sabrinawinterslaw.com

Ideally, your loved one would have been advised to set up a trust so any inheritance passed down to their family members would be out of reach from creditors and the courts. If they did not, and you have not filed bankruptcy yet, this may still be an option if your loved one is willing to have their plan looked at by a qualified Charlotte wills and estates attorney.

Planning to avoid giving your hard-earned wealth to creditors is not illegal or immoral either. You should think of it the same way you would when considering tax planning. Tax planning is legal, but tax evasion is not. The difference is whether you play by the rules and are honest. For example, not telling the courts you received an inheritance is illegal and you could face serious consequences. However, you are not skirting the rules if you are the recipient of a spendthrift trust; that was not your choice.

If you or your loved one needs help facilitating such a trust to protect your inheritance from the claims of creditors, simply call our Charlotte wills and estates office at (704) 843-1446 to schedule a “Peace of Mind Planning Session” at no charge (\$750 value). We will walk you through the necessary steps that must be taken to protect your inheritance from a bankruptcy filing or any other creditor’s claim. However, these appointments are limited to 5 per month so call today!