

## Atlanta Wills and Estates Lawyer Answers, 'Will Filing Bankruptcy Jeopardize the Inheritance Left to Me By a Loved One?'

By Steve Worrall, Atlanta wills and estates lawyer

Perhaps you saw it on the news a few weeks ago that economists on Wall-Street declared the recession officially over.

I'm not sure how they came to such conclusions, but I look around and still see far too many friends and family struggling to recover from the chaos to really consider it over. And while I acknowledge things may be improving on some fronts, I still find it hard to objectively look at a father who can't find work or a mother who's lost a huge chunk of her 401(k) plan to say our Country is officially in the clear.

I'm equally saddened by the number of bankruptcies taking place right now. For many families, bankruptcy is 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.

Let's say for example that you had a family member pass away who left you a cash gift in their 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 your creditors.

Hopefully your loved one had an Atlanta wills and estates attorney who knew a thing or two about protecting their inheritance from things like bankruptcy, creditors, divorce and the like. 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 Atlanta 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 fine, 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 wasn't 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 Atlanta wills and estates office at 770-425-6060 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!