



### **“Transferring Assets From the Company During Times of Trouble”**

**André Larabie**

**Y**ou will need to protect your personal assets during times of business trouble. Possibly your company is going through a turnaround. One situation that arises is transferring assets from the company to yourself. Suppose you have invested money in the business and the business owes you. If your business is already in deep trouble, it would be best if you do not have too many assets lying around for creditors to take if things do not work out.

Let me explain it this way: It would be best if every single asset had been legally moved out of the company to you (or to your wife, or husband). You can always loan it back to the business as a secured loan from yourself. This way, you personally, or your spouse, would be in the group of creditors and when everything gets divvied up, you will get a share as a creditor. You see?

If you have a bank account with \$100,000 dollars in it, and you have a spouse who is putting in long hours but working for free (thinking that maybe the value of the company is going up and there will be some big payout in several years when the company gets sold, or something like that), you should consider paying the spouse a fair salary or give them some other compensation for their time.

The idea would be to move the asset from the company bank account to the spouse (thus to you personally, sort of) instead of leaving it sitting around. If things go sour, and \$100,000 is sitting there, that money is as good as gone, and there may be no payout in several years when the company gets sold because your company went out of business before it happened.

Now if the company is in serious danger and you are very close to the



turnaround, then you can't just write your spouse a check for \$100,000 and say it is for all the work they have done over the past few months. This would likely get you into trouble.

However, if you manage your business correctly, and transfer these types of assets proactively and before there is a big tidal wave of trouble waiting to crash down on the company, then you can get this done correctly.

If the money had been paid to the spouse over several years, and the spouse loans some of it back, then the spouse is a creditor to the business, and if and when a bankruptcy proceeding takes place (this may actually be part of your turnaround plan), then the spouse will share in those assets.

This scenario is not only true with liquid (cash) assets but it can also be the case with fixed or other assets. Depending upon your particular situation, there will be ways to best manage these assets and the transfer of these assets to you personally. The idea is to do this in the best way possible, so you should consult a professional to help you decide on the best course of action.