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Shield Your Wealth with Asset Protection Strategies

If you're a high-income professional or entrepreneur—or if you simply have a substantial net worth—you probably realize that in today's litigious culture, you could be an attractive target for unfounded or frivolous lawsuits.

But what have you done to actually reduce the risk of losing your wealth if you get sued? In our experience, far too many affluent individuals and families don't act to protect their assets, livelihoods and lifestyles.

The good news: There are many strategies that can help safeguard your wealth against those who would unjustly seek to take it. Here's a look at the world of asset protection planning and how you might be able to harness it for your advantage.

The aim of asset protection planning

For starters, it's helpful to know that there's no formal body of law called asset protection planning. Instead, it's a series of strategies and tools that are part of the category known as legal risk planning—which itself falls under the broader umbrella of risk management.

Despite being a smorgasbord of strategies, asset protection planning focuses on realizing two main outcomes:

- 1. Discourage and deter lawsuits.** If possible, you want to eliminate or mitigate litigation before it even begins. The most potent asset protection plans we've seen are never even contested. Litigation is avoided or everything is settled before there are any judgments.
- 2. Motivate creditors to agree to a settlement that's favorable to you.** If a lawsuit does move forward, you want to minimize any loss of wealth. When there are judgments, for example, a powerful plan can make it extremely challenging for a creditor to collect the money from you should the creditor win in court. If a creditor is highly uncertain about the ability to collect, the odds of a settlement that's favorable to you can rise significantly. Add in the time involved dealing with the courts and attorneys—and the associated financial costs—and you can see how smart asset protection planning motivates a creditor to settle or perhaps even walk away with nothing.

True asset protection planning doesn't seek to "hide" wealth. It should be done transparently and out in the open in order to be effective. You want creditors (or anyone else who might try to take your assets) to clearly see what you have done. If they can easily grasp how difficult a legal path they'll likely have to take to get to your wealth, they may be much more motivated to settle.

KEY ASSET PROTECTION PLANNING FACTORS

Some important aspects of asset protection planning to keep in mind as you explore your options include:

- **Be flexible.** Your asset protection plan should be modifiable, to the extent possible, so you can adapt it as laws and circumstances change.
- **Use multiple asset protection strategies.** Redundancies tend to increase your ability to effectively insulate your wealth. What's more, you can tackle asset protection in multiple ways. For example, some estate planning strategies—the primary goal of which is to transfer wealth to heirs—also provide creditor protections. Therefore, implementing an estate plan can potentially be one way to strengthen asset protection efforts.
- **Be cost-effective.** Asset protection solutions' upfront costs include initial planning and implementation. Some strategies have ongoing costs as well. Get a good handle on the full range of costs before you move forward in order to determine whether the benefits justify the expenses.
- **Implement these strategies before you need them—or even think you may need them.** Put a plan in place after trouble arises (or even shortly before a lawsuit that seems imminent) with the intent of dodging creditors, and you might find your strategy negated by a judge. Worse, you potentially could be charged with contempt, fraud or civil conspiracy for engaging in “fraudulent conveyance.”

Regular reviews

Like any fundamental component of a wealth management plan, an asset protection plan is not a “set it once and forget it” type of solution. If you have a plan in place, you need to revisit it regularly to determine whether it's still correctly positioned to pursue the outcomes you seek.

The reason: Asset protection planning is regularly in a state of flux. Changes in laws and regulations can make existing strategies less (or more) effective, while also setting the stage for novel approaches. Meanwhile, asset protection planning experts are constantly seeking ways to shield the wealth of the affluent—while creditors and their professionals are always looking for ways to collect.

Clearly, you can't create an asset protection plan and then let it sit in a drawer or on a hard drive for the rest of your life! Commit to revisiting your plan whenever major circumstances change—such as when new tax laws are introduced or your own personal or professional wealth situation changes. If you haven't revisited your plan for more than five years, chances are it's time to do so.

Stress testing

If you're wondering whether your asset protection plan is still structured to pursue your specific goals, consider stress testing it by asking your advisor to review how it is likely to behave in various scenarios you might face. A stress test is a formal process that assesses the probability of an existing plan, strategy or product delivering the results you think it will and want it to. Stress testing can also be an excellent way to put a plan, strategy or product that you're considering implementing “through its paces.”

Ultimately, a stress test can help you determine that the asset protection you have in place is just what you need. Conversely, it might reveal that you could benefit by making adjustments to your existing setup. In either case, you'll know what's needed to help you shield your wealth.

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