



CONSIDER ASSET PROTECTION
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Lawsuits have become one of the greatest threats to personal assets today. Professionals, business owners and others can watch their entire life savings slip away in the process of losing a lawsuit, having a liability claim, or simply defending against some type of frivolous legal action. Therefore, today more than ever, asset protection is required. A common flawed asset protection strategy is to transfer assets into a spouses name.

How does asset protection work?

Asset protection combines the use of corporate status, limited partnerships, trusts, specified asset ownership and other techniques that enable a family or an individual to protect most or all of their assets from lawsuits, creditors or third parties. By carefully selecting corporate shareholders, officers and directors and then limiting the property owned by any one entity, you can minimize your exposure even if you lose a lawsuit. This is an effective way to limit your risks.

Why do business owners in particular need asset protection?

Consider this: If a business is incorporated, then a simple mishap such as a corporate employee, officer, director or a shareholder getting into a car accident while on business in a company vehicle or on a company errand, could result in all the corporation's assets being seized to pay the full amount of damage.

Or, even more frightening, consider a professional practice of physicians, accountants, engineers or other professionals, in which an employee gets into a car accident. If this accident occurs while the employee is on company business, liability would extend not only to the assets of the practice, but also to each partner's personal assets. Further, partnerships subject every partner to liability for the acts of their other partners. Malpractice or some other error by one partner could wipe out the assets of all other partners. This is why so many partnerships and professional practices incorporate to eliminate personal liability.

One common but flawed strategy for asset protection is to transfer all assets into your spouse's name. The problem is that this is often deemed by the court to be a fraudulent conveyance of assets, or a constructive trust for the other spouse. In essence, this would allow an opponent to obtain a judgment against you and seize the assets held in your spouse's name.

With today's complex tax laws and the potential of "Clintonomics" taxation coming, it is time to reconsider your thinking on business, estate and tax matters so that you can protect yourself, your family and your business from higher taxes and judgments. Illinois has very little in the way of statutory protection from judgment creditors. Therefore, more aggressive techniques must be used to protect your family and your business. That is where asset protection comes into play.

Do you have asset protection?

Don't wait until after lawsuits have been filed against you to find out. Make

sure that your attorneys and tax professionals are conversant in this emerging strategy. According to statistics, chances are good that you will have at least two lawsuits filed against you at some point in time. The time to protect your assets and family is now.

Richard M. Colombik and Associates provides a wide range of legal services for both business and individual clients.

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