

3 Asset Protection Tips You Can Use Now

It's a common misconception that only wealthy individuals or those in high-risk professions, like doctors or lawyers, need an asset protection plan. However, anyone can be sued. A car accident, foreclosure, unpaid medical bills, or an injured tenant can result in a monetary judgment that could devastate your finances.

What Is Asset Protection Planning?

Asset protection planning involves using legal structures and strategies to safeguard your assets (accounts and property) from creditors, either completely or partially.

Unfortunately, this type of planning cannot be a quick fix for existing legal problems. Transferring assets to shield them from existing creditors could be considered fraudulent and result in legal penalties. Therefore, it's crucial to put an asset protection plan in place before you are aware of any lawsuits. Now is the time to consider implementing one or more of the following tips to protect your hard-earned money and property from creditors, predators, and lawsuits.

Asset Protection Tip #1: Load Up on Liability Insurance

The first line of defense is insurance, including homeowner's or renter's, automobile, business, professional, malpractice, long-term care, and umbrella policies. Liability insurance not only provides a means to pay money damages but can often cover all or part of the legal fees associated with a lawsuit. If you do not have an umbrella policy, speak with an insurance agent to see whether one is right for you, as these policies are relatively inexpensive compared to more advanced asset protection strategies. Also, check your current insurance policies to ensure your policy limits align with the value of what you own, and make adjustments as needed. Review all your policies annually to confirm that the coverage is still adequate and the benefits have not been reduced or changed.

Example: Jane, a small business owner, was involved in a car accident where she was found at fault. Her automobile insurance covered the damages, but the injured party also sued her for additional medical expenses. Thankfully, Jane had an umbrella policy that covered the excess amount, saving her from a significant financial burden.

Asset Protection Tip #2: Maximize Contributions to Your 401(k) or IRA

Under federal law, tax-favored retirement accounts, including 401(k)s and individual retirement accounts (IRAs), are protected from creditors in bankruptcy (with certain limitations). Therefore, maximizing contributions to your company's 401(k) plan is not only a smart way to increase your retirement savings but also a safeguard against creditors,

predators, and lawsuits. If your company does not offer a 401(k) plan, consider investing in an IRA for the same reasons.

Example: John, an engineer, consistently maximized his 401(k) contributions. When he faced unexpected medical bills that led to bankruptcy, his retirement savings remained untouched, providing him with financial security for the future.

Asset Protection Tip #3: Move Rental or Investment Real Estate into an LLC

If you are a landlord or a real estate flipper or investor, aside from having good liability insurance, moving your real estate holdings into a limited liability company (LLC) can be an effective way to protect your assets from the business's creditors, predators, and lawsuits.

There are two types of liability to be concerned about with rental or investment property:

1. **Inside liability:** This occurs when the rental or investment property is the source of the liability, such as a slip and fall on the property, and the creditor wants to seize an LLC member's personal (nonbusiness-related) money and property to satisfy the business's debt.
2. **Outside liability:** This is the debt of the member of the LLC and not the debt of the LLC itself, where the creditor wants to seize accounts and property owned by the business to satisfy the member's nonbusiness debt.

A properly formed and operated LLC limits inside liability related to the real estate to the value of what the LLC owns. In most states, creating an LLC also means that a creditor of an LLC member cannot access the accounts and property inside the LLC to satisfy a judgment against the member for the member's personal debts. The LLC member's personal creditors may also be unable to take the member's ownership interest in the company. At most, if a member's personal creditor could seize the member's LLC interest, that creditor would be entitled to only the member's share of the distributions and would have no voting or management rights in the LLC. This type of outside creditor protection is often referred to as charging order protection. If the LLC is properly protected, a creditor will have to look to your liability insurance and any unprotected accounts and property, not the LLC, to collect on their claim.

Example: Sarah, a real estate investor, moved her rental properties into an LLC. When a tenant sued her for an injury on the property, the liability was limited to the assets within the LLC, protecting her personal savings and other investments.

If you are interested in using an LLC to protect your real estate investments, work with an attorney who understands the LLC laws of the state where your property is located to ensure that your LLC will protect you from both inside and outside liability.

You have worked hard to accumulate the money and property you have. Do not let a lawsuit take it all away. Call us today so we can evaluate your situation and craft an asset protection plan that best serves you and your loved ones.