

Abstract: Many financially savvy individuals are already thinking about filing their tax returns next year. But they shouldn't overlook another critical and equally important aspect of financial planning: asset protection. This article discusses some fundamental strategies to consider. A sidebar discusses asset ownership structure.

Asset protection is just as important as tax planning

Like many financially savvy individuals, you're probably already thinking about filing your tax return next year. But don't overlook another critical and equally important aspect of financial planning: asset protection. Here are some fundamental strategies to consider.

Buy liability insurance

Liability insurance policies help protect your assets from the financial risks associated with personal liability that results from an adverse legal judgment. Auto and homeowner's policies, for example, usually include some liability coverage. Increasing your liability coverage beyond the standard amounts will provide additional asset protection.

Personal liability umbrella insurance can give you even more liability coverage above the limits of your auto and homeowner's policies. For instance, if you were sued for causing a car accident or found liable for injuries suffered by a visitor to your home, umbrella insurance could provide coverage up to the policy limits (such as \$1 million).

Look to statutory protection

Federal or state law exempts certain kinds of property and assets from creditor liens. Thus, some assets you own may automatically be protected due to statutory guidelines. Qualified retirement plans are this type of asset, as are IRAs and 401(k) plans, life insurance proceeds and Section 529 college savings plans. But keep in mind that inherited assets may not have the same degree of protection.

The amount of home equity that's protected (generally called the "homestead exemption") depends on state law. In some states, it's very generous, but in others it's extremely limited, given the value of homes today. In a couple of states, there's no protection. Consult with an attorney about your state's laws.

Establish a trust

Assets placed in an irrevocable trust can't be removed, nor can the trust terms be changed. Thus, you've effectively relinquished control over the assets and put them out of reach of your creditors. The asset transfer must be done in advance of the act that created the liability, or the transfer could be nullified. In other words, the time to think about setting up such a trust is before you need to take advantage of it.

An irrevocable trust also can help you protect assets for your children and grandchildren. Consider structuring the trust in a way that effectively gives future generations the benefit of the assets without transferring ownership of them to your heirs. This can shield those assets from your descendants' future creditors.

If you decide to use trusts as part of your asset protection strategy, remember that they may be subject to higher income tax rates and additional tax filing requirements. Trusts also may be costly to set up and require expert legal counsel to administer and maintain.

Obtain expert assistance

The details involved in implementing asset protection strategies can be complex. We can offer you guidance in your case.

Sidebar: Asset ownership structure is key

Ownership of your assets plays an important role in whether they can be seized by creditors. Thus, it might be wise in some situations to transfer ownership of certain assets to your spouse. If you're at a high risk of liability — for example, you're a business owner — one strategy might be to retain ownership of assets with statutory protection, as mentioned in the main article, and transfer ownership of all other assets to your spouse.

© 2019