

Asset Protection: How to Lock Up Your Valuables

Now more than ever, people with wealth are “sitting ducks,” particularly if they have real estate holdings or significant professional incomes.

Consider the following: More than 90 percent of all lawsuits in the world are reportedly filed in the United States, and 78 percent of defendants in those suits thought “it could never happen to me.” According to the National Center for State Courts, more than 18 million incoming civil cases were filed in state courts in 2007 (the last year of full reporting) representing an increase of more than 4.5 percent from the previous year. Anecdotally, the numbers have risen even more dramatically as the economy has shifted downward.

That is why asset protection planning should be an important part of every estate plan.

The substantial assets of a physician, attorney or other professional should always be protected in the event of a lawsuit for professional or personal liability. A middle class family’s assets also should be protected in the event a husband or wife needs nursing home or medical care for an extended period of time. Business owners might think their assets are protected because they have a corporation or a limited liability company, but the corporate veil of protection can be pierced in some situations and the owners can also be sued for torts or other acts committed in their personal capacity.

One national expert defines asset protection planning for such individuals as, “the adoption of planning techniques that tend to place assets beyond the reach of future potential creditors”.

Some of these planning techniques include planning for sufficient personal liability and “umbrella” insurance coverage and holding title to your residence by optimal designations (such as “tenants by the entireties”). In Illinois, it can also be advantageous to maximize assets invested in certain areas, such as retirement plans, disability benefits, homesteads and certain other qualified property. These are simple, but less than perfect solutions for asset protection.

Asset protection plans can also be set up to utilize the laws of other jurisdictions. Some states, (such as Alaska, Nevada and South Dakota) have statutes that are more friendly to those who are seeking to protect their assets. There are also offshore options available where domestic structures are insufficient.

But you must be aware of the legal limits of asset protection as well. Asset protection does not include committing fraud or perjury or engaging in fraudulent transfers.

Beginning in April, we will conduct a series of workshops entitled, “Asset Protection for Business Owners”. It is our experience that most business owners have a false sense of security and need to better understand the risks to their

business and assets and the options available. Watch this blog and [our Web site](#) for announcement of the dates and times beginning in April.

The Chicago business and estate planning lawyers at Kaufman Law Group in Northbrook, Illinois serve clients throughout Illinois, including the Chicagoland communities of Arlington Heights, Buffalo Grove, Deerfield, Des Plaines, Elk Grove Village, Evanston, Glenview, Gurnee, Highland Park, Lake Forest, Libertyville, Lincolnshire, Niles, Northbrook, Oak Brook, Palatine, Schaumburg, Skokie, Waukegan, Wheeling, Winnetka, Wheeling, and all cities within Cook County, DuPage County (Wheaton, Naperville), Lake County, Kane County (Geneva, Aurora, Elgin), and McHenry County.

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