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Making Over a Physician's Asset Protection Plan: a Case Study

By Ike Devji, J.D. | March 15, 2011

Doctors and practice managers are continually bombarded with a combination of information and sales materials on various legal and financial strategies, often in a vacuum that fails to explain how the pieces work as one holistic system.

Below is an actual physician's "before and after" incorporating many of the elements covered in my previous articles on specific elements of defensive financial and legal planning over the last few weeks. Minor identifying details have been changed to protect the doctor's privacy.

Fact Pattern

Dr. Raj Jones is a plastic surgeon, 49 years old and married with three children. His wife Debbie Jones is a realtor and works in John's office one day a week for benefits and a small draw. Together, they live an affluent lifestyle in a Scottsdale, Ariz., suburb. Here's a snapshot of Raj's assets and the planning he has in place:

BEFORE

1. Raj has $500,000 in home equity, it was much higher, but current market values have reduced the value of his $2 million home to $1 million, the home is titled to Raj and Debbie;
2. Raj and Debbie have a second home with an equity value of $200,000, it's in Debbie's name to "keep it safe";
3. The family has $365,000 in personally held investable assets and another $200,000 in qualified plans that are protected by law;
4. The family has four cars: a sedan for Raj, an SUV for Debbie, an old Honda for their oldest daughter, and a pick-up truck driven by their son Matt, who is in college in another state. Raj and Debbie's cars are both leased by the practice;
5. Raj has an old will completed about 11 years ago, just before the birth of their last child, but no other estate-planning documents. Raj has $1.5 million in life insurance and Debbie carries $250,000. He has no long-term care insurance and carries $5,000 a month in disability coverage that he's had in place for 20 years;
6. Raj owns the $600,000 building he practices from personally, has $295,000 in equipment and 11 employees and two associate physicians that work as contractors. He has an employee manual that was provided by his employee payroll company six years ago when they signed up. Current economic conditions reduced his average $1 million income to around $650,000 the last two years.

The family is collectible for the vast majority of their approx. $3 million in net worth under this scenario.

After reviewing the Doctor's legal and financial structure we saw a number of areas of potential risk and loss. Here are just some of the recommended changes implemented with his advisory team.

AFTER

1. The family's home has been transferred to an irrevocable trust. The $500,000 in current equity is now SAFE and protected and they get to keep the mortgage interest deductions, capital gains benefits and can sell the home or borrow against if they need to;
2. The second home with $200,000 equity is now SAFE -transferred to the same trust so it is fully protected against their community property liability and the argument that the home was purchased, maintained and remodeled with community property funds;
3. The non-qualified assets of $365,000 are now SAFE-transferred to a limited partnership that has the legitimate business purpose of investment management (IRA and etc. were already protected);
4. The vehicles leased by the practice are transferred to Raj and Debbie, the practice is no longer liable for any and every accident that they or one of the children may be in. Insurance coverage is raised, and umbrella is added and the adult son has title to his vehicle, reducing the liability for mom and dad;
5. Old will is replaced with Revocable Living Trust that covers both spouses, healthcare wishes, guardianship for their minor child. The trust also ensures none of the kids ever gets a huge lump sum of cash to waste. Raj's life insurance is audited and replaced with a policy that has more death benefit for same premium and Debbie's coverage is increased to the right level. Raj's DI policy is maxed out to provide a more reasonable level of replacement income and LTC insurance is added. Both have full "return of premium" benefits: In case they are never used they can be "cashed out";
6. Raj's building is transferred to an LLC owned by the limited partnership set up in #3 above. It is now protected from his liability as an asset for the family by two layers. A cost segregation and energy efficiency study is completed to provide significant tax breaks. Finally, new employment and dispute resolution manuals are implemented and Raj obtains both employment practices and medical records breach (HIPAA) insurance.

The family is now collectible for only $150,000, the value of personal checking, vehicles, and used furniture and clothing. They are now Hard Targets, not worth pursuing.

After implementing these changes and few others the family was safer, retained more wealth and much more certain of their ability to achieve their goals in an uncertain legal and financial environment.

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