

## Benefits of Forming an LLC or an Asset Protection Trust in Nevada

By Stephen Pinson

Many individuals and businesses are considering whether to protect their assets through the formation of an LLC or an Asset Protection Trust. Many people fail to address this need until after liability occurs, and by that time, it is too late.

Nevada is a unique place compared to other states when forming an LLC. In Nevada, a person can form an LLC fairly quickly, and without many restrictions. Nevada is considered one of the best places for forming an LLC, mainly because it is tax free for business entities, and has few reporting requirements. Additionally, an LLC can limit the liability of its owners. More importantly, Nevada is the only state that provides “charging order protection” for both corporations and LLCs.

A “charging order” is a type of lien that gives the lien holder only an economic interest over the interest in the limited liability company to which the lien has attached. This is important, because it prevents personal creditors from seizing corporate shares and taking control.

Nevada is also considered a great place to set up an Asset Protection Trust. An Asset Protection Trust prevents judgment creditors from seeking the assets held by the trust. Nevada is one of only a few states that allow a person to create an asset protection trust for oneself. The law became effective October 1, 1999, but many people have not utilized it for its asset protection capabilities, because they are not informed on its ease of formation and structure.

When a Nevada Asset Protection Trust is combined with one or more Nevada LLCs, it provides a second layer of protection from creditors along with the “charging order protection”. In this scenario, the creditor is unable to force a distribution from the limited liability company or make any investment decisions over the limited liability company assets, and the assets are held in trust. Many creditors do not like this remedy, because it forces them to settle their lawsuit for significantly less.

The Nevada laws are very similar to the laws in offshore jurisdictions. However, offshore trusts may even hold greater protections, when coupled with a transaction structure that contains a Nevada LLC.

Setting up one of these transactions can be a convoluted process, so it is important to seek advice from experienced counsel in order to understand all the risks involved with various strategies.



### About the author Stephen Pinson:

Stephen represents clients involved with intellectual property and technology disputes. Specifically, he defends clients in software licensing and copyright infringement matters. Prior to joining the firm, Stephen practiced in high-stakes securities litigation, regulation, and enforcement actions. He spent the majority of his time prosecuting and defending large corporate clients, institutional investors, and Wall Street firms.

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