

## WHY YOU NEED PROTECTION

The ultimate goal of asset protection is to give you and your family lifetime security – the comfort of knowing that you can't lose what you own; regardless of the financial or legal problems you may face. A good asset protection plan will also help you achieve other important objectives:

### Discourage Lawsuits

One objective of asset protection is to discourage lawsuits. To discourage lawsuits you must convince a potential plaintiff that they cannot seize your wealth.

Discourage lawsuits, and your asset protection plan shields you from the costs to defend against lawsuits. A lawsuit can cost you tens of thousands of dollars to defend, even if you win the case. You can spend an enormous amount of money, time, and effort to win a lawsuit. Prevent even one lawsuit, and you pay for your asset protection many times over.

A potential plaintiff must weigh the costs to sue you against the odds of winning *and* recovering based on your *exposed* assets. Are you even worth suing? Lawyers don't spend time on unproductive cases.

It is not whether or not you have assets that determine whether you get sued; it's whether your assets are *exposed*. Avoid lawsuits. Convince a prospective plaintiff that *your* financial fortress is *impregnable*.

If you have good protection, you are in a far stronger position to negotiate a fast, inexpensive settlement. You negotiate from strength when your opponent *knows* you have nothing to lose and they have little or nothing to gain from suing. A good defense lawyer will sell the idea that you are judgment-proof and that the plaintiff should settle their case for those few dollars. Your goal is to settle fast and inexpensively. Avoid lengthy, time consuming and costly court battles.

### Reduce Insurance Costs

A good asset protection plan will also save you money on liability insurance. We don't promote asset protection as a substitute for liability insurance, but insurance can be too costly for high-risk professionals and business owners. Asset protection can supplement or replace their insurance.

Insurance is costly (and it attracts lawsuits); nevertheless, it's invaluable for any risk management program. Make insurance your primary defense and asset protection your secondary safeguard. Convince the plaintiff to settle within the policy limits and forego further claims against you by having your assets well-insulated.

### Improve your Financial Planning

A good asset protection plan can also help you reduce your estate and income taxes, improve your estate plan, and possibly even grow your investments. Asset protection is an essential component to any financial plan.

## Become Judgment-Proof

The ultimate purpose of asset protection is to safeguard your wealth against the worst-case scenario – you are sued and lose. And the odds are that you *will* someday be sued. Your asset protection plan then faces its ultimate test. Your asset protection plan may prove its benefit only after the plaintiff wins a judgment and has exhausted every collection attempt.

Even with protection, *every* case has its settlement value. You don't want a judgment over your head for twenty or more years. Or a plaintiff may force you into bankruptcy. And a judgment against you won't improve your credit rating.

The success of your asset protection plan then is not whether you will avoid paying something if you are sued. You probably will. Your goal is not to lose significant assets.

## Three Pillars of Protection

How can you protect your assets? It boils down to three basic strategies or *The Three Pillars of Protection*:

1. ***Own exempt assets.*** The first and simplest strategy is to own assets that have either federal or state statutory protection from lawsuits and creditors. These are *exempt* assets. Conversely, own few (or no assets) that are not exempt or self-protected.
  2. ***Title your assets to one or more protective entities.*** This tactic prevents your judgment creditor from seizing those sheltered assets. These entities can include a number of domestic or foreign entities.
  3. ***Encumber or equity-strip your assets.*** Fully mortgage or encumber your exposed assets and protect the loan proceeds to reduce the equity vulnerable to a litigant.
- These are fundamental legal concepts. There is more to asset protection.

Within these protective pillars are eight specific firewalls we frequently use in our planning:

- Federal and state exemptions
- Co-ownerships
- Corporations
- Limited partnerships
- Limited liability companies
- Domestic trusts
- Offshore entities
- Debt-shields

Each firewall has its own unique characteristics, strengths and weaknesses, advantages and disadvantages, applications and instances where they would or would not be used. Presser Goldstein expertly blends these various firewalls into your ideal plan.

There are hundreds of variations on the theme, and numerous other protective entities and

strategies that can be used for protection. Most entities and strategies, conceptually, fall within one of these eight firewall categories. For example, limited liability partnerships and limited liability limited partnerships are variations of limited partnerships and limited liability companies. The professional limited liability company (PLLCs) is another variation.

We can't discuss *every* possible firewall in this website. We only present the more common strategies. Our asset protection texts written for lawyers have many more advanced methodologies and legal and financial strategies. These complex arrangements often provide financial as well as protective benefits. Some strategies are more financial than legal. For example, some Presser Goldstein plans employ structured financial products (SFPs). These complex arbitrage arrangements effectively shift wealth between spouses with different liability exposures. We may also use insurance products to shield our client's wealth. Some protective maneuvers are basic. For example, exposed cash can prepay certain expenses or repay a favored creditor.