

Don't Needlessly Put Your Wealth at Risk

You might agree with the idea that having wealth is better than not having it. But sizable assets can be accompanied by significant potential problems.

Case in point: In our experience, the wealthy sometimes feel that they are targeted by unjust lawsuits and litigation. Indeed, you may very well know someone in your life who has been sued. Maybe it was you!

That means you should at least consider taking steps to protect the assets you've worked so hard to build from being unjustly taken. Otherwise, you may jeopardize your financial security and that of your family (and your company, if you're an entrepreneur).

But the fact is, many wealthy individuals lack a plan to protect their assets. When CEG Insights surveyed 1,256 affluent investors with net worths ranging from \$100,000 to \$25 million, with 90% having over \$1 million in net worth (not including their primary residence), here's what they discovered:

- **Fewer than 20% of investors overall have established a formal asset protection plan—and among those with net worths between \$10 million and \$25 million, just 27.7% have such a plan.**
- **40% of investors operate without umbrella insurance, exposing themselves to potential financial vulnerabilities.**
- **Gen X investors are the most lax in these areas—being the least likely to have both a comprehensive asset protection plan and adequate umbrella insurance.**

The upshot: There's at least a decent chance that asset protection could add value to your financial life.

But what does that mean? Asset protection planning as we define it is pre-litigation planning designed to deter lawsuits if possible—and if not, to encourage favorable settlements.

The logic of asset protection planning is clear: You build a wall around your wealth that is as difficult as legally possible for litigators, creditors and others to scale. Instead of trying to fight it out with you in court for months or years and risk losing, the litigant sees that the only reasonable option from a legal standpoint is to settle for pennies on the dollar—or, ideally, to leave empty-handed.

Important: Asset protection isn't about "hiding money" from the world—quite the opposite, in fact. You want anyone who might come after your assets to clearly see what you have done to build a wall around your wealth. Why? It shows them the difficult legal path they'd have to take to get at that wealth—which, hopefully, will cause them to settle, negotiate, or (ideally) throw up their hands and walk away.

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FIVE ASSET PROTECTION STEPS TO CONSIDER

If you're among the many successful people out there who lack an asset protection plan—or if you're simply curious whether your existing plan is still as strong as it needs to be—consider taking a few key actions.

1. Get protected before a claim against you is made. You can do a lot to protect your wealth before a liability arises—but thanks to a concept known as “fraudulent conveyance,” very little can be done after. As with insurance, the time to have asset protection in place is well before you need it—or even think you might need it.

2. Cover the basics. Evaluate your liability insurance and other related policies, and maximize them as best you can. Probably the fastest, easiest and cheapest move you can make is to take out a large umbrella policy to safeguard assets. Another simple but powerful strategy can be to place your assets in someone else's name, such as your spouse's. If you're sued, those spouse-controlled assets are often untouchable.

3. Consider a variety of other asset protection strategies. The asset protection strategies you may need will depend on your specific situation, of course. That said, it's generally a good idea to consider your options, which might include:

- Ascertain appropriate utilization of risk transfer through property-casualty insurance (homeowner's, auto, rental, personal excess liability [umbrella], health, disability, life, long-term care, directors' liability and professional liability insurances).
- Use state law exemptions effectively (for example, the homestead exemption, the cash value of life insurance policies, retirement plans and annuities).
- Consider various forms of ownership that either put assets beyond the reach of a creditor or make the assets less desirable for creditors.
- Examine restructuring your current business.
- Discuss gifting assets when there are no current creditor issues in order to lessen the likelihood of raising fraudulent transfer issues.
- Structure any expected gifts and/or inheritances to protect them from claims of creditors.

4. Be sure your attorney or other professionals are qualified to help you protect your assets. We see that some financial professionals aren't in a position to provide guidance on and implementation of many asset protection solutions. Assess the asset protection expertise among your professionals—either the expertise they possess themselves or the resources they have access to via their professional networks of other experts.

One important move is to have a team in place to develop a coordinated response. It is very common to reach out to professionals for help with lawsuits, with the aim of avoiding litigation. Different types of professionals may get involved depending on the nature of the issues. If multiple professionals become involved in the process, there is likely to be a coordinator—sometimes known as the litigation problem-solver.

5. Avoid big mistakes that will trip up your asset protection efforts. Some asset protection strategies are complex and require a deep familiarity with and understanding of how they work in order to set up and execute them effectively. If poorly structured, asset protection strategies will have no “teeth” when they're needed most—and business owners' assets won't be nearly as safe as they assume.

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