



## Protection Plan

### Five Simple Steps for Protecting Your Personal Assets

When clients hear “asset protection,” they often think of offshore trusts or, perhaps, a Swiss bank account. The reality is business owners can adequately protect their assets using tried and tested legal principles, saving the need for a private jet to the Cayman Islands.

One fundamental aspect of asset protection is that the law allows one person to wear different legal hats. For example, when someone establishes a trust, they are often the grantor, the trustee and the beneficiary, yet the law treats these three roles as separate and distinct. It is precisely this legal nuance that is the heart of good asset protection. With this in mind, there are five simple recommendations for asset protection.

your personal life. All activities on the business side should be conducted through the legal entity. Once the business side has generated sufficient income and there is enough left to pay the bills, the business may transfer some of the earnings to the personal side.

Once money is on the personal side, it cannot be taken by a creditor unless the business owner has done something to breach the legal barrier that exists.

Examples of breaches include signing a document personally instead of using a legal entity, making a personal guarantee or allowing your personal life to be mingled with your business life. If the business owner does not respect the barrier between business and personal

credit. Stop! While this sounds reasonable, you are opening your personal life to their creditors without any idea of how much you could lose. If you decide to sign a personal guarantee for someone, try and have the guarantee apply to a specific set of assets and to be as short as possible.

4. Learn to be your own bank. As noted above, the law respects the different hats we wear. Once you have sufficient assets in your personal life, you may loan your business the money it needs. Should anything go wrong, you can step in, like any other creditor, and have a better chance at getting your money back as opposed to a scenario where you simply invest, rather than loan, the same amount of money into your business. Be warned this strategy requires well-drafted intercompany agreements. You should consult a lawyer before engaging in this type of strategy. If you try to implement this on your own, you are likely to cause problems.

5. Buy liability insurance to protect yourself. Liability insurance is far cheaper than most people realize, and the benefit is the insurance company covers any damages and also pays your attorney's fees. Many business owners engage in elaborate planning using several business entities, but the costs associated with managing and accounting these entities usually exceeds the costs associated with good insurance.

By following these simple steps, a business owner can go a long way towards protecting assets without incurring the expense associated with more complicated asset protection and offshore planning. **UB**

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1. Establish and maintain a trust for estate-planning purposes and, if appropriate, establish one for a spouse. With a little additional drafting, an estate-planning trust may be used to shield assets from potential creditors. This approach is called the “divide and conquer” strategy, with half the family assets held by the spouse's trust and half held by the business owner's trust. If the business owner gets into trouble, at least half of the family's assets are safe.

2. Operate the business through a legal entity such as a corporation or a limited liability company. As with a trust, the law deems a legal entity to be distinct and separate from the owner. Imagine having two distinct lives: your business life and

life, then the law will not respect the division between the two.

3. Don't ever sign a personal guarantee, either for yourself or for another, without thinking about the consequences. Personal guarantees are significant breaches in the legal barrier protecting your personal life from your business life. Whenever you sign a personal guarantee, be certain the scope is narrow and the duration is as short as possible. In other words, if a breach is going to happen, make sure it is as small as possible.

Friends and family members may ask you to sign a guarantee for them so they can get a loan. The pitch is that you don't have to give them any cash; all you have to do is let them use your good name and