Keeping Your Assets **Protected**

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Let's say you've worked pretty hard in life and you've accumulated some wealth. Nice job! But then the unthinkable happens. A personal liability claim arises or a turn in your fortune leads to bankruptcy, and then in an instant all that wealth is gone. Liquidated. Poof. Thanks for playing. Better luck next time.

The truth is there are many ways you can protect your assets in the event of calamity. By consulting a financial advisor and an attorney before the worst happens, much of your assets can be safeguarded from creditors.

But the threat might not be coming from creditors. It might be coming from some teenager outside the U.S paid to hack into your health insurance or credit card provider and steal your personal identity so it can be sold in the deep web. Then what do you do? Well, as with all asset protection, the key is to be proactive.

"If you're a business storing any type of sensitive data, you should consider getting cybersecurity insurance," says Bill Sherman, managing partner at Robbins, Kelly, Patterson and Tucker, which has invested in cybersecurity insurance itself. The law firm also smartly offers, as a benefit to its employees, Identity Guard, a service that provides credit monitoring and protects against fraud, of which identity theft is but one variant.

"The most important thing in guarding against fraud is making sure you are diligent all the time, making sure you are reviewing your credit reports and responding to correspondence from the IRS," says John Dovich, president of John D. Dovich & Associates, LLC. "It is often an issue of individual responsibility."

After fraud and identity theft, the next threat comes from creditors. Personal liability insurance is a must for everyone. An umbrella insurance policy that covers losses not paid by other primary insurance policies (home, auto) is important to have as well.

Yet such insurance policies can only supplement, not replace, asset protection. Typically, personal asset protection begins with the creation of trusts, which "put a barrier around your assets if you have a creditor issue," explains Dean Johns, principal, John D. Dovich & Associates, LLC.

Still, only certain types of trusts are able to protect your assets. A revocable trust, sometimes called a living trust, that one creates while they are alive and of which they are the sole beneficiary does not afford much asset protection, while an irrevocable trust someone else creates for you may.

"I say to my clients, 'you can do for your children what you can't do for yourself in terms of asset protection,' " says Sherman. "When you leave assets to a child, be it a lifetime gift to an irrevocable trust or maybe upon your death you retain a share of the child's inheritance in trust, those assets can be subject to a spendthrift provision which disallows creditors from attaching any of the assets to a claim and protects the assets held for a child from division in the event of a beneficiary's divorce."

"And while your revocable living trust may not provide much protection," adds Johns, "you can have your spouse or spouse's revocable trust be the owner of the assets, which creates another barrier around your assets. This is especially effective if one spouse is in a high risk profession, such as a physician, while the other spouse is not or may be a non-working spouse."

Sherman also describes a Self-Settled Asset Protection Trust, which allows you to place assets into a trust from which you can

Pictured left to right: Dean Johns, principal, John D. Dovich & Associates; Bill Sherman, managing partner, Robins, Kelley, Patterson & Tucker; and John Dovich, president, John D. Dovich & Associates

receive distributions while still retaining protection from creditors. This trust is new to Ohio and has yet to face legal challenges, but Sherman says it's something to consider in the future for high net worth individuals.

Creditors aren't the only concern, notes Dovich. "Just as important is asset protection as it relates to personal bankruptcy."

There are, Dovich explains, times when the economy simply doesn't work in your favor. Think 2009 and the business of contracting. Personal bankruptcy then becomes relevant to asset protection. "Retirement plans through your employer are generally protected and individual retirement accounts are protected in the event of a personal bankruptcy."

There are nuances with inherited IRAs though. "If it is an inherited IRA, those can be attached in a bankruptcy proceeding," says Sherman. "That leads to different estate planning strategies, depending on the size of the inherited IRA and the risk profile of the client."

If you operate a business or own a rental property, a common way to protect yourself is to establish a Limited Liability Corporation. "I have a simple rule for my clients," says Sherman. "If you're going to have a rental property or even a vacation home, and you're going to have a third party on that property then you need to do asset protection."

"LLCs give you personal asset liability protection, so if there is ever an incident where there are potential claims against you, the party has to make the claim against the LLC and not you, the individual," says Dovich. "That is a huge level of protection for our clients."

"The bottom line," says Johns, "is that high net worth individuals and business owners work their butts off to generate wealth, and through planning techniques they can protect it instead of having it be subject to creditors. The key is to be proactive about doing so and collaborating with your financial advisor and attorney." ❖

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