



Asset Protection in Tough Times

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Overview of Asset Protection Planning

Due to the prevailing uncertain economic conditions many clients are concerned about their Asset Protection Planning.

Without Asset Protection Planning, professionals and business owners (Principals) are at a distinct and unnecessary disadvantage in the world of commerce, leaving them exposed to risks that may be completely out of their control.

In respect to Asset Protection Planning the key issue to proper planning is Timing and Intent.

What follows is an overview of Key Factors to consider in respect to Asset Protection Planning.

Key Factors to Consider

Consider Assets that maybe at Risk

Implication: Review existing assets and their ownership structures and identify strategies to either move assets away from risk or reduce the value of assets at risk.

Limit Liability in Trading Entities

Implication: Review structures used within the business or professional practice and where appropriate extract assets from the trading entity.

Limit Liability with Other Principals

Implication: In many instances the actions of other Principals may inadvertently cause a Principal to be both jointly and severally liable to the action of the other Principals. Therefore structure all arrangements with co-Principals to ensure that all actions are cross indemnified against risk.

Avoiding Day-to-Day Business Operation Liability Risks

Implication: Review contracting procedures within the business or professional practice and examine how contract and legal risks can be reduced.

Adequate and Correct Insurance Cover

Implication: In uncertain times review the adequacy and correct cover in line with the enterprise's policies and procedures, where possible modify policies and procedures to ensure that they are in line with what is covered under insurance.

Personal Wealth

Implication: Isolate Personal Wealth from Business risk by removing personal wealth from Business Risk and Creditors.

Timing

Implication: Anticipate and consider the need for restructuring in respect to Asset Protection Planning well before the need may arise.



Preservation of Assets for Lifestyle, Retirement and Estate Planning

Key Guidelines

- (a) Ensure assets are held outside the control of persons or entities that are at risk or that are financially exposed;
- (b) Be discrete in the use of assets, in the ownership of assets and in the ownership of business structures;
- (c) Ensure business structures generate income in entities separate from the main trading or financially exposed entity;
- (d) Ensure that transfers are done at market value and done for commercial reasons;
- (e) Ensure that entities that are not financial exposed have security over assets in entities that are at risk or that are financially exposed;
- (f) Ensure that wills and estate plans are put in place to protect the generational transfer of assets to person or entities that are not at risk;
- (g) Ensure that asset protection plans are commenced and implemented before they are needed;
- (h) Ensure that business succession strategies are in place to ensure the business continues even when persons or entities within the business structure are under 'attack';
- (i) Ensure that the taxation costs from transferring assets and from restructuring businesses entities is right for the asset protection plan; and
- (j) Ensure insurance strategies fit with asset protection planning.

The best asset protection plan is the one that is established and implemented before it is needed. Timing and Intent is critical.

Conclusion

To learn more about Asset Protection Strategies or to register for the ili Preservation, Succession and Retirement Strategies for Business Owners in Tough Times Seminar to be held on 5 March 2008 please visit <http://www.ili.com.au/shortcourses.html>.

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