

**“Global”
Asset Protection
(Domestic)**

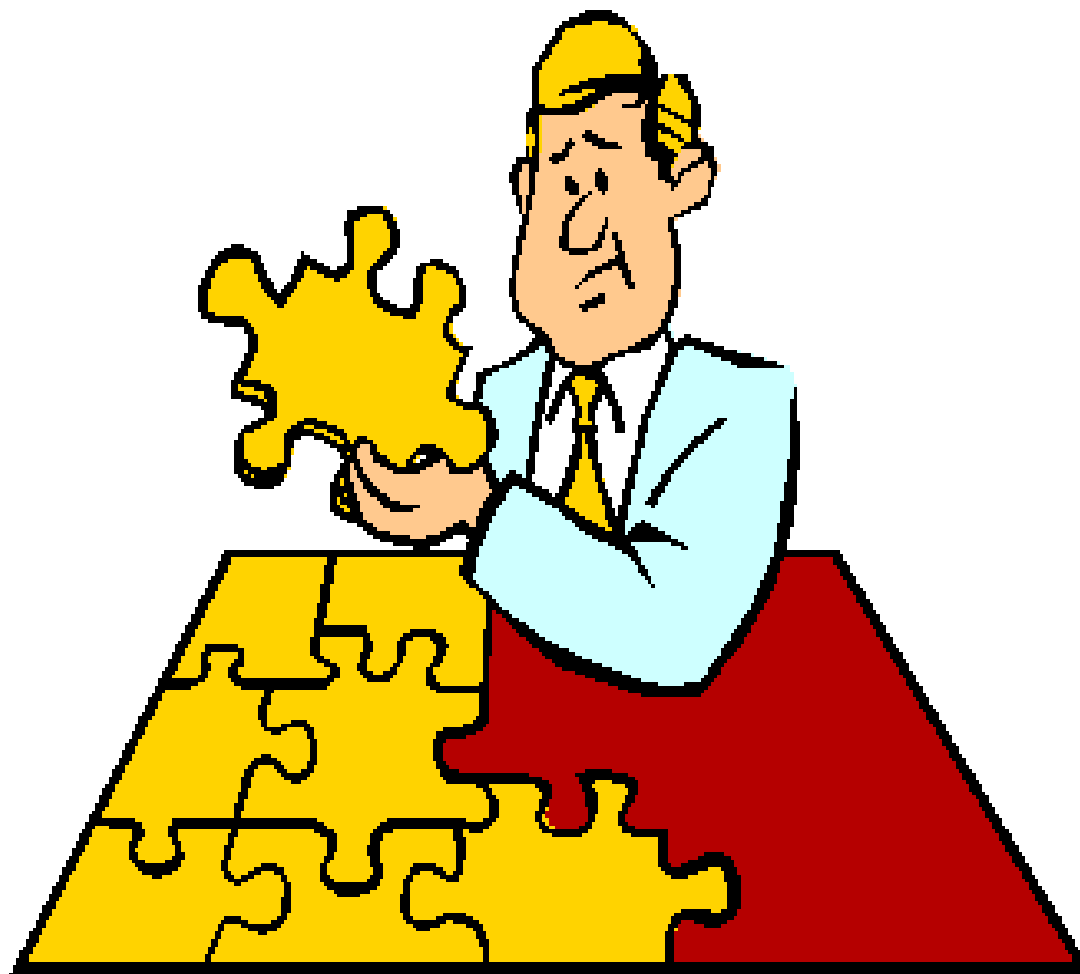


What are the most important topics to most clients?



- How to make more money.
- How to pay less in income taxes.
- **How to protect money from creditors.**
- How to retire early.
- How to keep money (not lose it in the stock market).
- How to pay less for LTIC, disability and life insurance.

**Is your asset protection, estate,
income tax reduction and financial
plan puzzle put together?**



What is Global Asset Protection?



- Asset Protection “gurus” simply deal with protection from a typical negligence suit.
- Global asset protection is much broader and helps a client protect their assets from **ANYONE** or **ANYTHING** that can your money.

Continued



- Who is your biggest guaranteed creditor every year?
 - The **IRS**
- Who was your number one creditor from 1999-2001?
 - The **stock market**
- Who will be your biggest creditor when you are over the age of 65?
 - **Long term care expenses**

Who needs asset protection?



- Anyone with Money (the simple answer).
 - High income/net worth clients
- Anyone who can not hide behind the asset protection of a corporation.
 - Physicians
 - Attorneys
 - CPAs/accountants, EAs
 - Financial Planners
 - Stock Brokers
 - Insurance agents
 - Architects
- Even if a professional is acting as an employee of a company, he/she can not hide behind the limited liability of the company and can be sued personally.
- Therefore, if you are in one of the above listed fields, you need asset protection more than anyone else.

Reasons non-professionals need asset protection



- If your clients have or own the following, they have asset protection problems:
 - Residence.
 - Teenage children.
 - Boat, automobile, waverunner, snowmobile (protect the estate from the asset not the asset from creditors)
 - Vacation rental.
- Why?
 - Slip and fall at the home, bad handrail, party at the house and someone drives home drunk and gets into an accident.
 - Teenage children who have parties when parents are away (**The parent is liable** when a friend drives home drunk and is injured).
 - Negligent driving (drunk driving).
 - Defective condition of the property and the owner has a higher duty to take care of the property.

What is good asset protection planning?



- Good asset protection:
 - is NOT about “hiding” assets.
 - uses existing laws to put up barriers in front of creditors to discourage creditors from attacking personal assets.
 - is legal.
 - can be complicated or simple.
 - can be expensive or not.
 - can be domestic or offshore.
- Good asset protection CAN NOT prevent lawsuits.
 - The majority of claims filed against physicians are without merit.
 - Anyone can be sued for anything (although the claim might get dismissed, a defendant still has to deal with it).

Don't Put Eggs in One Basket



- Multiple Entity Approach
- Debt shields
- Segregation techniques
 - AR
 - Real Estate
 - Valuable Equipment

Personal Protection Tools



By Law

- Homestead
- Life Insurance, Annuities
- Wage account

By Action

- FLPs/LLCs
- Offshore
- Irrevocable trusts
- Debt shields

What assets should be protected?



- Family Home or Condominium
- Rental Property
- Non-Rental Property
- IRAs
- Stocks or Mutual Funds
- Life Insurance
- Bank Account or CD's
- Planes, Boats, Automobiles, Wave runners or Motorcycles
- Other business entity (especially S or C-Corp stock)
- Collectible items that have significant value
- **Accounts Receivables (at the medical practice) ***
- Other personal real property of value
- Future Inheritance for Family

*Be careful with this topic. It is a fear topic used by insurance agents to sell product.

Corporate Entities



- Sole proprietorships (2nd worst)
- Partnerships (worst)
- C-Corporations (not great)
- S-Corporations (not great)
- LLCs (tool of choice domestically)
- FLPs/LPs (tool of choice domestically)

Why LLCs and FLPs?



- Because if assets are owned by an S- or C-Corporation the owner **can not** avail him/herself with what is called **“charging order” protection**.

Difference for **Asset Protection** The “Charging Order”



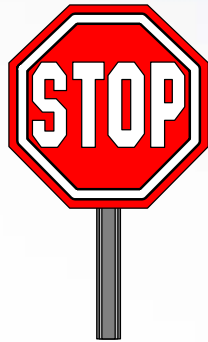
- The Charging Order.
- A charging order is the only remedy a court of law can award a creditor who is trying to get (obtain) the assets of a debtor when the assets are in an LLC or FLP.*
- A charging order DOES NOT allow creditors to sell assets of the LLC, or to force distributions of income.
- *This assumes the LLC or FLP is setup in a state with a statute that states a charging order is the sole remedy. (Always check your state statute to

What A “Charging Order” Means



FLP

**Your
Assets**



Doesn't become partner (ULPA sec 27)

Can't touch Assets

Gets no FLP voting rights

Can't force FLP distributions

Charging Order

CREDITOR

**Creditor gets the K-1 (Rev. Ruling 77-137)
on phantom income**

IRS no longer pursuing charging orders

Continued



- LLCs and FLPs are the domestic bread and butter tool.
- If you have more than \$500,000 or so in a brokerage account, we still recommend an offshore asset protection trust (OAPT). Why? Because when money is owned by a US entity, local judges who do crazy things still have control. With an OAPT, that is not the case.

Topics not covered



- **Divorce Protection**
- **Long Term Care Insurance**
- **Estate Taxes**
- **Use of Life insurance and annuities**
- **Protecting the personal residence**
- **Type of tenancies which are poor asset protection tool**
- **Community property states**
- **Trustee and D&O liability**
- **Self settled asset protection trusts**
- **QPRT**
- **Debt Shields**
- **A/R protection**
- **Offshore planning**
- **CICs (and the list goes on)**

Offshore Planning



- LLCs and Trusts
- More difficult to attack (US Courts have no jurisdiction)
 - Impossibility Defense.
- Tax trap for the unadvised
- Excellent opportunity for those who “do it right”

Offshore LLC



- Nevis LLC
 - charging order protection like U.S.
 - Short statute of limitations
 - Member-managed best for control
 - Outside manager-managed best for AP
 - Time consuming and expensive for a creditor to attack.

Offshore Trust



- Main tool of “offshore” experts.
- **BEST** asset protection tool available when done correctly.
- Has proven to be creditor proof even when clients make fraudulent conveyances to the Offshore trust. (client had to sit in jail for several months for contempt of court, but eventually was let out and had access to the funds). The Anderson Case.
- For more information, please contact our office.

Asset Protection **Scams**

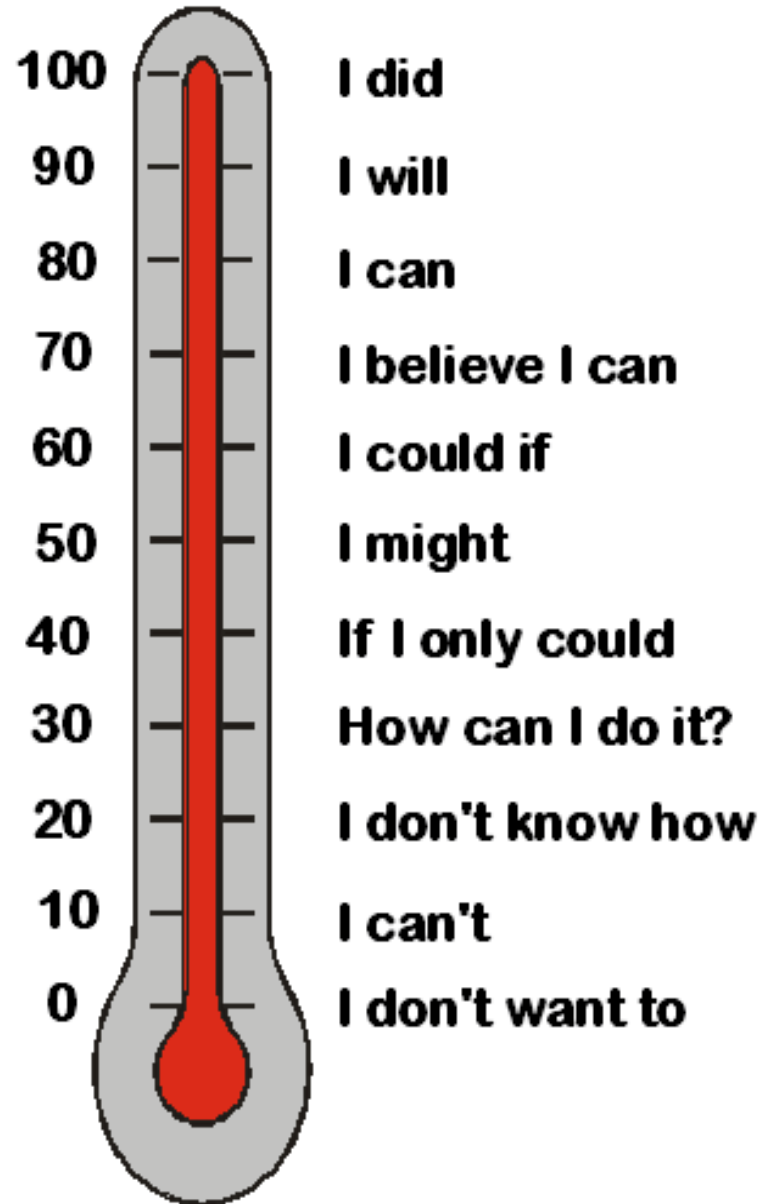


- Just as important as it is to know what works, it is equally or more important to know what doesn't work.
- Stay away from:
 - Anyone talking about NV LLCs and Bearer Shares
 - Anyone who says that they need to be the owner of the C-Corp. or LLC which owns your assets so you can “hide” assets. (never give up control of your money).
 - NV, AK asset protection trusts (also know known as domestic asset protection trust). These have not been tested and it is our belief they are unconstitutional.

There is only one way to reach your asset protection goals.



Commitment to Action



Summary



- Domestic asset protection can be simple and not too expensive.
- You will use FLPs and LLCs located in the correct state to accomplish most of your domestic asset protection.
- There are many other items you need to look at to deal with **global asset protection** (stock market protection, reducing taxes and protecting against long term care expenses), but a working knowledge of the topics in this powerpoint is a good start.
- If you would like a review of your asset protection plan (or lack thereof, please contact our office.