

# Preserve wealth for yourself and your heirs using asset protection strategies

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There are many techniques you can use to protect your assets, from giving them to loved ones to placing them in offshore trusts. It's important to understand that asset protection isn't about evading legitimate debts, hiding assets or defrauding creditors. Rather, it's about preserving your hard-earned wealth in the face of unreasonable creditors' claims, frivolous lawsuits or financial predators.

## Assess your risk

The first step is to assess the risk that creditors, former spouses or opportunists will go after your assets or those of your beneficiaries. If your risk is relatively low, but you seek added peace of mind, you might consider simpler techniques, such as changing the way assets are titled or gifting them to your loved ones. However, if your risk is higher — for example, if you own a business, are in a profession with a high degree of malpractice risk or are involved in other activities that expose you to potential financial liability — you might consider more sophisticated approaches.

If you wish to protect assets while retaining some control over them and also shielding them from your loved ones' creditors, consider an irrevocable trust. Transferring assets to such a trust places them beyond your creditors' reach (provided it's not a fraudulent transfer and you're not a trust beneficiary). And by including a "spendthrift" provision, you can also protect the assets against claims by your *beneficiaries'* creditors. A spendthrift provision prohibits your beneficiaries from selling or assigning their interests in the trust, either voluntarily or involuntarily.

To provide even greater protection for your beneficiaries, consider using an independent trustee and giving him or her full discretion over distributions from the trust. Suppose, for example, that you establish a trust for the benefit of your child and authorize the trustee to make scheduled distributions or to distribute funds for your child's "health, education, maintenance and support." Typically, a fully discretionary trust avoids inclusion in the marital estate, although in some states this trust type may be treated as part of the marital estate to be divided in divorce.

### **Start planning now**

Whichever strategy you choose, it's critical to start planning now. The earlier you implement asset protection, the more effective it will be. Please contact us to get started.

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