Going back to basics with asset protection strategies

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Asset protection trusts — both offshore and domestic — can be effective vehicles for protecting your wealth in today's litigious society. But these trusts can be complex and expensive, so they're not right for everyone. For those seeking simpler asset protection strategies, there are several basic, yet effective, tools to consider.

Some of these strategies involve transferring assets to another person or entity, or changing the way property is titled. Here are a few common asset protection strategies:

Insurance. For many people, insurance is the first line of defense against liability claims that expose their assets to risk. It includes personal or homeowners liability insurance, as well as professional liability insurance for doctors, lawyers and other professionals who are common targets for lawsuits.

Lifetime gifts. The most effective asset protection strategy may also be the simplest: giving your assets away to your children or other loved ones. After all, a creditor can't come after assets you don't own. The disadvantage of this approach is that you must relinquish control over the assets.

Tenancy by the entirety. Many states permit married couples to hold their homes or other real estate as "tenants by the entirety." This form of ownership protects assets against claims by either spouse's separate creditors. So, for example, it can be effective when one spouse is exposed to professional liability risks. It doesn't, however, protect couples against claims by their joint creditors. Tenancy by the entirety, if available, may be a good option for people who aren't comfortable transferring title to their spouses.

Retirement accounts. Qualified retirement plans — such as 401(k), 403(b), and 457 plans, as well as certain pension and profit-sharing plans — are excellent asset protection vehicles. IRAs offer more limited protection. Assets held in most qualified plans enjoy unlimited protection from creditors' claims — both in bankruptcy and outside of bankruptcy — under the Employee Retirement Income Security Act.

Keep in mind that, for these strategies to work, you must implement them at a time when there are no pending or threatened claims against you. Otherwise, you may run afoul of fraudulent conveyance laws.

Before you weigh your asset protection options, you should conduct a risk assessment to evaluate your level of exposure. Armed with this information, you can determine which asset protection tools are right for you.

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