Asset Protection Checklist

Just like owning insurance, establishing an asset protection plan before something happens is essential. A good asset protection plan can help you maintain your standard of living and preserve your ability to pass assets to heirs or charitable organizations. The following checklist can help you begin thinking about which strategies make sense for your particular financial goals and situation. Remember, you should always consult a qualified tax or legal advisor to determine the particular set of risks from which you want to protect your assets.

SCENARIO	ASSET PROTECTION CONSIDERATIONS	COMMENTS
1. Do you own a home?	• Homestead exemption • Homeowners policy liability coverage • Umbrella liability insurance coverage • Tenancy by entirety	Homestead protections will vary from state to state. Umbrella liability insurance can provide additional coverage in excess of underlying liability coverage outlined in homeowners and auto policies.
2. Do you have elderly or teenage drivers at home?	• Auto insurance liability coverage • Umbrella liability insurance policy	With more than 5 million accidents and 30,000 fatalities annually,* driving is one of the riskiest activities people engage in. It is critical for people to account for potential risks.
3. Are you saving for retirement?	• Company-sponsored retirement plans like 401(k)s • IRAs	Under ERISA, retirement plans are fully protected from creditors. IRAs receive federal creditor protection in the case of bankruptcy filing only, but may receive additional protections at a state level.
4. Are you saving for college education?	• 529 college savings programs • Coverdell Education Savings Accounts (ESA) • Custodial accounts	529 plans and Coverdell ESAs receive certain protections in the event of federal bankruptcy filing and may receive additional protection at the state level. UGMA/UTMA custodial accounts are generally protected from claims made against the custodian.
5. Do you own real estate or rental property?	• Separate LLC/LLP to own real estate • Family Limited Partnerships (FLP)	Separate ownership can limit the potential risk associated with the property while protecting other personal assets from claims by creditors.
6. Do you own a business?	• Establish separate entity to own the business (corporation, LLC, LLP) • Family Limited Partnership for family-owned business • Retirement plans • Commercial liability insurance coverage • Professional liability insurance coverage	Business owners need to think carefully about the liability risks associated with operating a business, especially if there are employees. For example, risks could arise from business dealings, the activities of employees, claims brought against the employer by employees, product deficiencies, and more.

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7. Are you a medical professional?	• Malpractice coverage • Use of LLC/LLP structures to strip equity from the practice • Retirement plans such as defined benefit pensions to maximize annual contributions • Other advanced techniques such as captive insurance as an alternative to commercial malpractice insurance	Physicians and other medical professionals are subject to unique risks due to their profession. For example, over 90% of surgeons will be sued at least once during their careers, according to the American Medical Association. Equity stripping entails establishing separate legal entities such as LLCs to own valuable assets associated with the practice (office building, expensive equipment, etc.). The practice enters into a leasing arrangement with the newly formed entity.
8. Do you have significant liquid assets?	• Life insurance and annuities • Irrevocable trusts • Family Limited Partnerships • Offshore/foreign trusts • Domestic Asset Protection Trusts • Umbrella liability insurance coverage	Life insurance and annuities receive protection from creditors in many states. Irrevocable trusts with spendthrift provisions and FLPs are generally good options for protecting assets from the reach of creditors. Offshore and Domestic Asset Protection Trusts can provide benefits but are not without certain drawbacks. In some cases, U.S. courts have ordered defendants with assets held outside of the U.S. to repatriate assets back to the U.S. or face contempt of court charges. Domestic Asset Protection Trusts are still relatively new structures so there is not much historical legal precedent.
9. Do you serve on the board of a local charitable organization?	• General liability coverage • Directors and Officers liability coverage	Local board members may face liability arising from the actions of volunteers while conducting activities associated with the charity or organization. Claims may also arise due to mismanagement or employment-related activities.
10. Do you reside in a state with limited exemptions or protections from creditors?	• Company-sponsored retirement plans • Irrevocable trusts • LLCs/LLPs	Maximize the use of options that have proven effective in protecting assets; ERISA retirement plans like 401(k)s and defined benefit pension plans, are two such examples.

*National Highway Traffic Safety Administration, 2009. Most recent data available.

This information is not meant as tax or legal advice. Please consult with the appropriate tax or legal professional regarding your particular circumstances before making any investment decisions.