

Insights: Publications

Asset Protection Planning from A-Z: 26 Things to Think About Before Jumping In

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Let's work off of this premise: an estate planner's job is to help a client pass their value and values to the following generations to the fullest extent possible, addressing as many of the obstacles in doing so as practical.

The Internal Revenue Code and interpretations thereof are certainly obstacles, but hardly the only ones. Indeed, to the extent our clients are losing sleep over their ability to pass wealth on to future generations, their tossing and turning in the night is typically caused by concerns far beyond taxes. The impact of who knows-how-many other external and societal factors – getting in and out of marriage, increased malpractice concerns, fiduciary and shareholder litigation, stock market swings, economic collapse and political upheaval – cause the greatest client nightmares.

Asset protection planning is (or should be) standard fare for any estate planner. But the truth is that estate planners have always been asset protection lawyers; they just didn't always think of themselves that way. Just think about this: why set up a trust at all if not to produce some level of asset protection now or at death? And really, rotten kids and bad marriages have existed since at least Biblical times. The risk factors change with time, but the need to do the planning does not.

This outline lays out 26 things to consider while engaging in asset protection planning for a client. The items are alphabetized, but other than the discussion at letter A (if you only remember one thing today, that should be it), the items are in no particular order other than the need to creatively cover the alphabet.

Note: *The information in this outline is, to the best of the authors' knowledge (which can be imperfect), accurate as of November 2024. The reader of these materials should carefully determine the accuracy of these materials and applicability of these materials to their own client situations.*

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