



Armor Trust Attorneys

What is Asset Protection and Who Should Do It?

Asset protection begins with identifying the risks that threaten a person's assets. These risks differ from individual to individual, so the methods used to protect assets also should differ from person to person. Some asset protection techniques are simple and easy to put in place. Others can be extremely complex, time-consuming to create, and expensive to maintain. It is crucial to select the most appropriate method, put it in place, and keep it in place.

Asset Protection is a lot like selecting the best lock for a particular door, installing it, and then remembering not to leave it unlocked.

Risks that can threaten assets include divorce, disability/incompetence, business deals and business partners, financial creditors, and many other sources of liability, including personal injuries. Asset protection methods, similarly, range from simple care in the titling of property to relatively simple insurance coverage, legal documents and business entities, to much more complex domestic and offshore trusts.

Asset protection is particularly important for: Business Owners; Professionals such as physicians, architects, engineers, building contractors; and other high net worth individuals.

Effective asset protection relies on planning well in advance rather than on secrecy. The best asset protection methods are those that can be fully disclosed without compromising their

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effectiveness. Planning well in advance is the biggest challenge in protecting assets. Asset protection methods generally are not effective as to existing creditors or liabilities, or even as to likely creditors or liabilities, under state and federal laws. Similarly, most asset protection techniques for U.S. citizens are not effective as to most U.S. tax liabilities.

The most complex asset protection methods involve creating business entities and special trusts in states and countries that have favorable asset protection laws and then transferring assets to these. A dozen or so states have enacted such laws. These include Delaware and Tennessee. Use of the “domestic” asset protection methods typically requires implementation and asset transfers at least four to five years in advance of the need for the protection. Domestic asset protection trusts can be appropriate in many situations but are far from perfect solutions, especially if the amounts in question are large. A higher degree of protection can be achieved using similar techniques in “offshore” jurisdictions that have enacted favorable laws for this purpose. When going offshore, it is important to select jurisdictions that are stable and that have dependable support services.

Summary: Plan well in advance, select the most suitable “lock,” install it properly, and then remember to keep it “locked.” Armor Trust Attorneys is available to guide you through this process.

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