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ASSET PROTECTION for SEPARATION a STRICTLY BUSINESS POINT OF VIEW

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Protection is important, yet for personal wealth it can be surprising rare – especially for divorce cases.

On paper, a divorce should be as simple as dissolving a business partnership; mutually separating assets, creating amicable custody arrangements with any children involved, and going your separate ways.

Sounds simple, but a divorce is a dispute of the heart and emotions often supersede rationales. Divorces can be messy, long, and are often fueled by negative emotions.

We've all heard the horror stories "My ex took half of everything." This is due to the lack of knowledge around asset protection plans. There is a rather large discovery period to analyze both parties' financial affairs to ensure that there are no fraudulent transfers taking place and all the assets are on the table. The 'fraudulent transfer' is the most common accusation that arises during a divorce proceeding.

This argument is why it is so hard to protect your exposed wealth. You can not transfer the assets to a friend to hold on to until your divorce is completed. You cannot place the assets in an irrevocable trust within the United States for protection as the courts will take possession. You cannot spend down your liquid wealth into non-liquid assets such as a property or a vehicle as the ownership rights for these assets are still up for grabs.

How do you protect yourself and assets that you've accumulated throughout your marriage?

The answer lay in creating degrees of separation from you and your assets before initiating any proceedings, maintaining control, and avoiding the fraudulent transfer. Have you heard the phrase "control everything, own nothing?" That's the strategy that is best suited for divorce.

Looking at these implications from a strictly business point of view – we've created the acronym: STOP. Stay in control. Trust no-one but yourself. Off your balance sheet. Protective legislation.

To do this ethically with avoiding phony banking systems, money laundering, tax evasion, and the fraudulent transfer is no easy task. But it is possible.

We take the acronym and work at it backwards. The first order of business is protective legislation. The school of thought here is that local

courts dictate local money. Step one is locating a secure offshore banking system that provides protection from exterior powers. There are literally hundreds of countries and banking systems that all claim to be the best providers of asset protection – however, we've done our due diligence and have found that a combination of two countries legislations and banking systems to be a recipe for success.

Now that the new asset domiciles have been found, to initiate the next step, we set up a properly structured asset protection trust. These can be used for various types of assets such as property or financial investments. So, the client can control day to day activities, we establish an LLC owned 100% by the Trust. The LLC holds all the accounts that require protection. The assets are not transferred to the LLC as that would be a fraudulent transfer – rather, the assets are invested into the LLC.

Our client is then appointed to be the manager of the LLC. This allows you to have control over everything while "owning" nothing. The trust is structured as such for when there is an event of legal duress (divorce, lawsuit, etc.) against the manager of the LLC (the client) the Trustee (friend, relative, or other) is duty bound to protect the trust assets (the LLC) and remove the manager for the period that the event of duress exists. When the event of duress is over, the client is then reappointed as manager.

This structure allows you to stay in control of day to day activities, remove the assets from your balance sheet, while avoiding a fraudulent transfer, and further secure privacy and protection for your assets by engraining protective legislation. Outside courts have no jurisdiction over properly structured and written asset protection plans.

These are the first few steps to an asset protection plan. It is also an effective strategy when looking to protect your assets from future creditors, lawsuits, partnership disputes, or judgements. The entire process is a series of legal, financial, and lawful techniques that can deter a lawsuit, provide settlement negotiation power, but most importantly – it can help prevent the seizure of your assets in the event of a judgment.

The planning is tailored to the assets, risk, and comfort level of the client. To maximize its effectiveness, planning should take place before the need arises. However, there are options that provide asset protection after legal action is filed. As such, asset protection is a grand form of financial insurance.

Ideally, it should be implemented well in advance of the need for it to avoid a fraudulent conveyance ruling.

It's important to get complete information to understand your needs, but once you do, act.

As always, I hope you find my words informative and educational. If you are looking for more information, feel free to go to our website and browse the resources we have available. If you are looking for a more direct source of guidance, reach out to our office. We offer free, no obligation, consultations.

Please note: This is not to be considered legal advice. You should consult an attorney before completing any plans.



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