

Help! My business is successful and I have no assets or money!

June 26, 2018



In today's world, it's difficult to avoid liability. The number of companies exposed to astronomical liability for the most basic of mistakes, is increasing at an alarming rate for companies engaged in manufacturing, transportation, oil and gas, law, healthcare, as well as any company that provides goods and services. Therefore, how do you legally protect your hard-earned assets and money from liability claims that can exceed your insurance policy? Additionally, how do you protect your assets from claims exempt from coverage from your liability insurance policy? The simple answer is, good asset protection planning prior to a catastrophic event occurring.

The first step in asset protection is recognizing that you have a potential problem. Statistically speaking, the longer you are providing a service and/or selling a product, the more likely that a mistake will be made. That's just being human. Just forming a company is not enough, because if that company contains all your assets and money, a legal hit to that entity wipes out your entire income. Therefore, the goal is recognizing

that you must protect your assets and money from claims of potential creditors before a problem emerges. The reason for this is because doing so afterwards is both complicated and costly, due to among other things, The Uniform Fraudulent Transfer Act and Forfeiture Law.

The next step in asset protection is identifying your liabilities and isolating them away from your assets and money. In theory, that concept may sound very simple, but in practice it becomes very complicated, as you do not want to violate any state or federal laws in doing so. In addition, despite what you see on television, the best way to protect your assets and money is usually not to put them offshore in some country that is unfriendly to the United States from both a tax and liability standpoint. The safest way to protect your assets and money under most circumstances, is to do so within the United States, in a transparent manner, so that you are not exposed to additional liability for fraud or create the appearance of any impropriety. Therefore, the key to successful asset protection is to ensure most of your assets and money reside in a company with the least potential for liability.

As an attorney who has spent a significant part of their career doing collection work and protecting creditors' rights for major financial institutions, I can tell you with utmost certainty that finding assets and money in today's information age is not difficult. I've spent even larger part of my legal career coming up with mechanisms to protect my clients' assets and money from a variety of potentially large liabilities. I have found one consistent theme in doing asset protection, each situation is unique. This is an area of law that is constantly changing based on changes brought about with changes in the tax code, changes in the law, changes in the way the law is interpreted by the Court and changes in the way we store information as well as do business in the modern information age. The appearance of impropriety can be as great an obstacle to asset protection as actual impropriety because the appearance of impropriety can expose you to potential liability or unnecessary inquiry by third parties. Therefore, all actions must be taken in a manner to appear as transparent as possible, with no negative intent or any intent to conceal or defraud a creditor, and in compliance with all applicable current state, federal, and international law. For this reason, the first step I always take before even accepting a client is ensuring that I can help them, because there are situations in which no form of asset protection can assist them. For those clients I can help, I create a detailed plan that is as transparent as possible and is easily understood by the client to fulfill their goals of asset protection. I also ensure that the client recognizes the limitations to any asset protection plan, because there are events that occur that are beyond what we could foresee.

In conclusion, the key to asset protection is to find a trustworthy attorney who is fully versed in asset protection law. Be wary of the fact that there are two types of asset protection. One that takes place in estate planning which has to do with the protection

of assets and money after one passes away and the type of asset protection referred to in this article. From my experience, you will find more attorneys that do estate law asset protection than the type of asset protection set forth in this article. Feel free to contact me at David@weinsteinlawyer.com for assistance.