Asset Protection
Strategies & Forms

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Every month I find more colleagues who want to publish their thoughts and techniques. To this end, I invite all comments, contributions, and disagreements you have with the information presented in this book.

—Alan Eber
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Introduction

“Property Must Be Secure
or
Liberty Cannot Exist”
—John Adams

Americans have freedoms others can only dream about. Our laws are strong in protecting our property rights. Our laws give similar strong rights to those who would take our property from us.

The same law that allows others to take our property can be used to protect our property. A man can either protect his family or allow them to be the lambs that may either go to the slaughter if sued or be safe because no creditor arose. Each must choose the path for himself and his family. Some take action, some suffer from ostrich-like consciousness.

The laws of Asset Protection allow those who wish to exercise their right to protect their property to do so. A right unexercised is the same as no right. If not exercised, it was you who let “them” take your assets. Use or do not use your rights. Your choice!

It is not from someone else’s “use” of the law that your assets are lost. It is your “failure to use” the law to protect your assets well in advance of someone else using the law to take your assets. Only those who fail to act will lose. Your choice.

To assist you in starting your journey toward becoming asset-protected, protection techniques and forms are discussed and provided herein.

“The Right to Be Left Alone Is the Most
Comprehensive of Rights and the Most
Valued by Civilized Men.”
—Justice Louis D. Brandeis, 1928

The right to be left alone? The most valued by civilized men? Take nothing for granted. History shows nothing is simply granted. Privacy, once so valued, has been taken for granted. As a result, it continues to be taken from us. Are we not concerned with continued encroachment on our “most valued” right? That right is ours only through its exercise. Each can use the law to begin to regain for his and his family’s benefit that “most valued [right]”—privacy.

“Winning Is Not a Sometime Thing;
It’s An All the Time Thing.
You Don’t Win Once in a While;
You Don’t Do Things Right Once in a While;
You Do Them Right All the Time.
Winning Is a Habit.
Unfortunately, So Is Losing.”
—Coach Vince Lombardi

Only those who fail to act will lose. Your choice.

You Work All Your Life for a Little Peace of Mind,
a Little Piece of Land to Call Your Own,
and Something to Leave Your Spouse and Children
To Better Their Lives.
But the Land Does Not Belong to You — Try Missing Your Tax Payments, and With the Proliferation of Lawsuits, the Best of Yesterday’s Estate Planning Techniques Are Useless if the Plan’s Assets Are Lost To Creditors or Divorce.

PLANNING IS NOT COMPLETE UNTIL YOUR ASSETS ARE PROTECTED.

Just as the purpose of preventive medicine is to maintain your physical health, asset protection is preventive law to maintain your asset’s financial health.

Asset protection techniques expand upon traditional methods of estate planning. Instead of only planning to protect your assets from those who would take them from you upon death (probate, estate, and generation skipping transfer taxes), you also plan to protect them from those who would take them from you (and your loved ones) during life (creditors, predators, divorce, and taxes).

This book will:
1. Introduce you to asset protection tools and techniques available in the areas of international and domestic planning. These tools and techniques are the legal and equitable protective entities we use. Techniques plan the integration of tools into protective strategies. The sum is stronger than its parts. But as our new California governor says, “Less is more,” and a well-conceived plan should be tightly woven. It is in the strategic integration of these tools that a plan is born. It is through strategic integration, not the number of entities used, that a plan is successful. Some of the tools that will be discussed are: domestic and offshore trusts, limited liability companies, domestic family limited partnerships, and offshore Private Placement Life Insurance [PPLI] and Captives. Chapter 3 is devoted to those who want to become asset protection strategists.
2. Provide you with forms and clauses to strengthen your planning and to assist your implementation of those techniques.
3. Provide you with a working knowledge of how the various advanced asset protection strategies actually work in particular circumstances. For example, in the case of LLCs (and FLPs) techniques, we will explain why they may not work as well as thought. They are only beneficial for some (certainly not all) clients, and many times, they cannot protect unless integrated with other entities. We will explain how to use them best by integrating them as part of the techniques that together form the plan.

My Asset Protection Background
I was introduced to asset protection in 1986. I survived the Tax Reform of 1986. I was a general partner on about a hundred syndicated real estate partnerships. I became very aware that I could lose my assets. I honed my asset protection understanding during several years spent with the collapsing banking industry on real estate workout issues. I saw many prominent real estate and oil and gas general partners cover themselves with these techniques. However, the use of these techniques is even more powerful when the horizon is clear.

—Alan Eber
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