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Fact Sheet:
Asset Protection

ASSET PROTECTION—Make Yourself Bulletproof from Judgments, Lawsuits, and Lawyers

By Attorney David P. Mierswa

Over 1 million lawsuits are filed in the United States every year. An average verdict can exceed 2.4 million dollars. Defending a lawsuit can cost tens of thousands of dollars or more. The majority of lawsuits are taken on a contingency arrangement by an attorney. This means it costs the plaintiff nothing unless they settle or obtain a judgment. Also, insurance companies are "for-profit" and may not pay out on a claim you thought you were covered on.

We live in the most litigious country in the world. Insurance coverage exclusions outnumber the coverage inclusions. Even if you are incorporated, you might be held individually responsible for corporate debts. This process is known as "piercing the corporate veil."

A corporate entity must perform "due diligence" and maintain certain corporate formalities, or be subject to piercing the corporate veil. This means that you should have a legally effective asset protection plan and estate plan. The two work in conjunction with another. For more information about an effective estate plan, go to my article entitled, "A Will Could Cost Your Family Fortune!" or contact me **www.LAW540.com.**

When a person conducts business as a sole proprietorship, an unincorporated partnership, and/or "d/b/a"—"doing business as," they have unlimited personal liability for the corporate debts and more important, liability for lawsuits.

Generally, an asset protection plan goes hand-in-hand along with an estate plan. It is a marriage that should be well thought out and planned for. The estate is directly tied into the corporate entities. John D. Rockefeller summed up effective asset protection as, "Own nothing. Control everything." Sun Tzu, who wrote *The Art of War* thousands of years ago states, "Know your enemy. . . for if you know your enemy, you need not fear them." The idea of Asset Protection is to transfer your personal assets and personal debt obligations into corporate entities and have what's known as limited personal liability.

The advantage of using corporate entities is that you are limiting personal liability. If sued, you are not responsible for corporate obligations. Corporations have a perpetual existence. This means that you can pass away, and the corporation keeps existing beyond your natural life. Most corporate entities allow more tax deductions than non-corporate entities or parties. Additionally there is a separation of managers from the owners. Generally, corporate owners have limited liability up to the amount invested in the corporate entity. Also, corporations are less likely to be audited by the Internal Revenue Service.

Corporate entities include some of the following types:

- limited liability company
- sub-chapter s company
- sub-chapter c company
- professional corporation
- and limited partnership; etc.

A limited liability company is a partnership that is incorporated, and the partners are known as members.

A sub-chapter s corporation is an older form of an incorporated partnership pursuant to IRS code "sub chapter s." A sub chapter s corporate entity is taxed only once. Most c corporations are publically held companies with a separation between management and the owners and are taxed twice, at the corporate level and at the owner's level. A professional corporation is a corporate entity that is owned by persons of the same profession, i.e. lawyers, doctors, etc.

A limited partnership is a corporate entity that has a general partner(s) and limited partner(s). The general partner is the management as well as owner and the limited partners are the owners with limited management rights. A limited partnership and some limited liability companies have what is known as a charging order. A charging order is the only means that a judgment creditor can levy against the limited partners. This means that a judgment creditor cannot collect any money from the limited partners unless they decide to pay themselves. Further, pursuant to IRS Ruling 77-137, the limited partnership can issue a K-1 statement to the judgment creditor even though they did not collect any money! The charging order limits what the judgment creditor is entitled to.

The price of not being incorporated could cost you and your family's wealth. Not only is being incorporated enough, but having the most effective corporate entity could save you thousands in taxes per year. Corporate entities are entitled to more tax deductions than non-corporate entities. The idea is to have limited personal liability from lawsuits and lawyers. Not having a proper asset protection program and estate plan can cost you or your family their fortune.

Attorney David P. Mierswa is an international speaker that has lectured on asset protection and estate planning for over ten years. He has assisted individuals and families to develop estate plans that range from simple to sophisticated.

For a free initial consultation, contact David Mierswa via email at LawyerLLLL@aol.com or visit www.LAW540.com.