SIXTEEN PROVEN STRATEGIES TO PROTECT YOUR WEALTH FROM LIABILITY SUITS, CREDITORS, AND TAXES

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Important! The following is a very brief summary of some effective wealth protection strategies. It is designed to provide accurate and authoritative information with respect to the subject of wealth protection. However, the information provided is general in nature and may or may not be applicable to your specific situation. It is written and published with the understanding that at this time, Thomas E. Nelson is not engaged in rendering legal, accounting, financial, or other professional services to you. If you need or desire legal, accounting, financial, or other assistance to handle your specific situation, contact and engage a competent professional.

1. **Avoid personal obligations**. If you personally sign and something goes wrong, you could be held personally liable and your personal assets could be at risk. To minimize your liability, avoid signing anything personally - that is, in your own name. If possible, sign in a representative capacity such as an officer of a corporation. Avoid signing personal guaranties, being a co-maker on a Promissory Note, etc.

2. **Avoid joint relationships**. Joint relationships include general partnerships, joint ventures, and joint tenancy. Many parents who place the name of their child as a joint tenant on the parents' homes, bank accounts, and other property risk losing those assets when their child is sued, has trouble with the Internal Revenue Service, or is involved in a divorce.

3. **Obtain homeowners insurance and automobile insurance with adequate policy limits.** Scores of people lose everything because they fail to acquire adequate homeowners and automobile insurance. A good rule to remember with most insurance is that in order to obtain greater amounts of insurance protection for the least cost, it is wiser to consider purchasing a policy with a high-deductible and high-limit than a low-deductible low-limit. For example, rather than purchasing a policy with a $100 deductible with a limit of $100,000, it may be better to purchase a policy with a $500 deductible with a limit of $500,000.

4. **Obtain adequate malpractice and errors and omissions insurance.** If you are in a business or profession with a risk of malpractice liability, acquire adequate malpractice protection. Homeowners and umbrella liability policies do not cover malpractice, so separate insurance is required. Read the fine print carefully. Legal costs of malpractice defense can be tremendous. Some policies include legal costs in the maximum amount they will pay. Others do not limit payment for legal costs, so they actually cover more.

5. **Obtain disability insurance**. Insurance statistics suggest that at any given age, there is a much greater chance of becoming disabled than of dying. For example, at age 42, you are four times as likely to become disabled as to die before age 45! If you have no disability coverage and do lose the ability to earn a living, you and your family will have no choice but to live off your assets...as long as they last. Remember that in selecting a disability policy, be careful to review the definition of disability. Make certain you are covered if you cannot do your regular job.

6. **Obtain an umbrella liability policy**. An umbrella liability policy may protect you against liability above and beyond the limits of your homeowners and automobile insurance policies. Because umbrella insurance coverage is relatively inexpensive, it is probably one of the best insurance bargains available today.

7. **If you are planning to marry, consider entering into a prenuptial agreement**. A prenuptial agreement is a device by which prospective spouses regulate their interest in each other's property, whether owned by them at the time of the marriage or acquired during the marriage. The agreement usually consists of waivers of interest while both are alive and waivers of rights in each other's estate.

8. **Use proper ownership of assets between spouses**. Assets held jointly by spouses may be totally lost because of a lawsuit against only one of the spouses. Therefore, consider placing assets in the name of the spouse who is at less risk of being sued or in his or her trust. It is best to transfer assets now, before a claim arises. Be careful of the Fraudulent Conveyances Act and "constructive trusts."

9. **Place assets in family limited partnerships, limited liability companies, offshore entities, wealth or asset protection trusts, and children's trusts.** In most cases, the most a creditor of a partner in a limited partnership or of a member in a limited liability company can obtain is a so-called "charging order" against that partner's or member's interest in the limited partnership or limited liability company. In most cases, the creditor cannot force distributions or dissolution. Transferring assets to certain offshore entities, certain wealth or asset protection trusts, and certain children's trusts may also place those assets outside the reach of creditors.

10. **If you are in a business that has co-owners or any employees, conduct business in the form of a corporation, limited liability company, or limited liability partnership.** With respect to general partnerships, the acts of a partner can bind the partnership. Each partner is liable for the debts and obligations of the general partnership. With respect to employees, the negligence of an employee can be directly attributable to you as the employer. Your partner or an employee may make the mistake, but you may end up paying for it. Even if you conduct business in the form of a corporation, limited liability company, or limited liability partnership, consider obtaining liability insurance.

11. **In arranging business entities, separate assets from liabilities.** For example, don't hold ownership in an asset that has potentially few liabilities, such as an apartment building, in the same entity with a business that has potentially great liabilities.

12. **Use separate legal entities for separate projects.** For example, if you operate your business in a building that you also own, transfer the business into a corporation and consider transferring the building into a properly formed limited partnership or limited liability company. If you own several properties, transfer each into a separate legal entity so that if one property has a legal problem, the others will typically not be lost. The saying "Don't put all your eggs in one basket" is extremely applicable when you are involved in various businesses.

13. **Timely pay your obligations, including taxes.** Avoid interest charges and collection fees by paying your debts, including taxes, in a timely manner.

14. **Reduce federal income taxes.** Under current law, federal income taxes may be reduced by using every deduction available to you, accelerating or "bunching" deductions from one year to the next, accelerating or deferring income from one year to another, taking advantage of the mortgage interest deduction by refinancing your home to use excess cash from the new mortgage to pay off your other debts (subject to certain limitations), upgrading investments without triggering a taxable event by using a Section 1035 or Section 1031 exchange, transferring highly appreciated assets to a charitable trust prior to selling such assets, participating in certain retirement benefit plans that allow for accelerated deductions (e.g., IRC § 412(i) Plans), participating in a specialty risk insurance program, using a captive insurance company, and maximizing savings in tax-deferred retirement accounts (IRA's, Keogh, 401(k) plans, SEP's, etc.). Timely obtain the advice of competent tax professionals.

15. **Reduce federal estate taxes.** Under the Economic Growth and Tax Relief Reconciliation Act of 2001, increases in the estate tax exemption are phased in over the next few years. The estate tax is scheduled to be repealed in 2010. However, the current estate tax system is scheduled to be reinstated after 2010. Therefore, unless Congress revises the law, an estate tax with a top rate of 55% may be revived in 2011. Under current law, if you are a single individual and you die in 2007 with an estate greater than $2,000,000, you have a potential federal estate tax problem. If you are married, with proper planning you can effectively eliminate all federal estate taxes on your death by using the unlimited marital deduction and substantially reduce the estate taxes payable upon the death of the surviving spouse by using a tax sheltered trust. Additional strategies used to reduce or eliminate estate taxes include equalizing estates between spouses, making gifts to reduce the size of the estate, establishing irrevocable life insurance trusts, establishing charitable trusts, transferring property to a family limited partnership or limited liability company and making gifts of limited partnership or limited liability company interests to your children, and "freezing" your estate. Be advised that inflation and continuing high rates of asset growth could easily outrun the estate-tax avoidance benefits of the increased unified credit.

16. **Avoid conservatorship and probate proceedings.** Without proper planning, when you become disabled or die, your assets may become the subject of expensive and, in most cases, unnecessary, conservatorship or probate proceedings. To avoid such proceedings, place appropriate assets in a revocable living trust. In addition, consider executing a durable power of attorney appointing someone you trust as your agent and attorney-in-fact. Although a durable power of attorney will not survive your death, such power will survive your disability. Consider signing medical directives such as a living will and a power of attorney appointing someone to make medical decisions for you if you are unable to make those decisions.

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