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- Appellate Litigation
- Asset Protection & Business Planning
- Business & Commercial Litigation
- Construction Law
- Corporate & Transactions
- Creditor's Rights & Bankruptcy
- Employment Law
- Estate Planning
- Family Law
- Healthcare Professionals Advocacy
- Insurance Defense
- Landlord/Tenant
- Personal Injury
- Real Estate Law
- Trust & Probate Litigation

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ASSET PROTECTION

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## What is Asset Protection?

The risk of losing hard-earned assets because of legal disputes is a rising concern among business owners, professionals, and individuals. Though insurance is a logical choice for protecting one's assets, it is frequently insufficient or unavailable. Asset protection involves identifying and applying effective legal techniques to protect one's assets from the claims of potential creditors. The techniques are meant to be a deterrent, usually by making it difficult or impractical for assets to be seized or unfavorable judgments to be collected.

Depending on one's assets or total net worth, asset protection can include creating different legal entities and separating assets, along with other strategies best determined by individuals and their attorney. Because transfers of property are subject to fraudulent conveyance laws, which vary by state, legal counsel is vital to any asset protection planning.

Moreover, asset protection planning is most effective if completed before there are any claims against assets.

## Asset Protection Strategies

Asset protection can be accomplished through a variety of estate planning devices from the simple to the complex:

### □ Spendthrift Trust

Protects a beneficiary from mismanagement of his or her spending and gives the trustee the authority and discretion to determine how trust funds will be spent for the benefit of the beneficiary

### □ Offshore Asset Protection Trust (OAPT)

Bestows the ownership of assets in an offshore entity that is unknown to anyone except the beneficiary and his/her attorney

### □ Separate Property Trust

Divides the community property of spouses into two separate trusts, thereby protecting assets from each other's creditors

### □ Gift of Property

Relinquishes ownership of property, thereby eliminating it as an asset subject to claim

### □ Family Limited Partnership

Forms a limited partnership designed to hold the family business or investments, so that parents may make gifts of their interests to children


### □ Domestic Onshore Trust\*\*

Allows for an individual to create a self-settled spendthrift trust protected from the claims of future creditors, as governed by state legislation

### □ Homestead Exemption\*\*

Provides for the claiming of a certain dollar amount of a property's value as a homestead, thereby protecting it from forced sale

\*\*Available in select states only



Depending on individuals' occupation and their level of assets, various legal asset protection techniques may be recommended by an attorney when conducting a risk analysis for asset liability. Professionals who must continuously adhere to standards of professional responsibility, such as physicians, accountants, and attorneys, may be especially interested in the benefits of implementing an asset protection strategy.

The attorneys of Hutchison & Steffen understand the importance of protecting a client's assets against claims by potential creditors. The Firm's attorneys employ a variety of asset protection techniques to make it difficult or impractical for assets to be seized or unfavorable judgments to be collected. Hutchison & Steffen's asset protection strategies include, but are not limited to, the creation of Spendthrift Trusts, Offshore Asset Protection Trusts (OAPTs), Separate Property Trusts, Family Limited Partnerships, and the gifting of property to descendants. The Firm's attorneys strive to identify particular asset liability, on behalf of a client, before recommending methods best suited to judiciously safeguard the client's hard-earned assets.