

Protect Yourself From Our Litigious Society

By Jim Williams

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We have all seen the ads: “Have you been injured? You may be entitled to a Cash Award!” or “If you lost money in the stock market because of your broker’s casino mentality, call us to recoup your losses!”

It’s sad but true... If you accumulate wealth, you become a target for lawyers, the IRS or someone with less than you. The good news is that you can protect yourself from a devastating lawsuit.

Did you know that you have a 1 in 4 chance of having a potentially devastating lawsuit filed against you sometime in the future? There are currently between 80 and 90 million lawsuits filed in this country each year. That is over 150 suits per minute! Over 70% of the world’s lawyers are right here in the USA, and we are adding new ones at a rate of 50,000 per year! What do you think those new lawyers are going to do to the number of lawsuits filed annually?

Unfortunately there is no way to completely avoid the possibility of being sued. There is, however, a way to reduce the risk of a devastating lawsuit, and to protect you personally should a lawsuit be filed. What you need to do is to arrange your affairs so that any activity that could create the potential for a lawsuit is transacted in a manner that will not affect your personal assets. Whether the activity is an operating business, rental property or any other “risk” operation, you need to separate yourself from those operations through corporate entities.

John D. Rockefeller once said: “Own Nothing, Control Everything”

If you do not own anything, or it “appears” that you do not own anything, no lawyer will sue you unless someone is willing to pay his exorbitant hourly fees. If, on the other hand, the lawyer sees substantial assets, he may very well take the case against you on a contingency basis. Attorney’s contingency fees in the US currently run in excess of 10 billion dollars per year!

The best way to protect your personal assets from this “lawsuit-crazy world” is by forming a legal entity separate from yourself. This can be a Corporation, Limited Liability Company, Limited Partnership or some combination thereof. However, you must keep in mind that in order for an entity to give you the protection you need, it must be set up and operated properly, and the type of

entity or entities must fit your particular situation. If set up properly, your entity will not only give you the protection you need, but will, in most instances, pay for itself many times over in fringe benefits and tax savings. To find out more about the differences in each of these and other business structures just pull up our web site www.abd2win.com and go to our "Business Structures" page.

The benefits and protection afforded by properly structuring and separating your "risk" activities, like your business interests and real estate holdings, from your personal assets can be clearly seen with the following example:

John is a computer consultant that works out of a small office in downtown San Jose, California. His wife works with him part-time doing the books and records and other office duties, and she is his only employee. John's net income is currently \$80,000 per year before taxes. He generates 75% of his business income from services, and another 25% from the sale of related software products. John and his wife had been operating as sole proprietors – under their own names, without a corporate structure -- for over 10 years until early in 2003. They had been able to acquire several rental properties over the years, and were becoming concerned about protecting their assets

At first, John thought he should form a C Corporation so that he could protect he and his wife's assets while also reducing their taxes. After learning the he could be construed to be a Personal Service Corporation by the IRS because his product sales were less than 50% of his overall sales, John decided on an S Corporation for the business and a Limited Liability Company for his real estate. By separating his business into one entity and his rental properties into another, John and his wife accomplished a number of positive things:

1. They moved the rental properties out of their name reducing the possibility that some overzealous lawyer might come after them personally because on the county records they were showing a great deal of wealth.
2. They protected themselves personally from a potential lawsuit generated against one of the rental properties. Any lawsuit filed against the properties would stop at the LLC and would not put their other personal assets at risk.
3. If they did have a personal judgment declared against them, the properties would be protected through a charging order.
4. They have protected their real estate and other personal assets from any lawsuits against the business. Since the business was set up as an S corp. all of the income flows through to John and his wife personally. Therefore, the only assets in the company would be those needed to maintain the day to day business. In other words, John can move the profits out of the company, and protect them from litigation at the same time.
5. They saved money on taxes by taking all of their fringe benefits right off the top by having things like automobile expenses, health insurance, travel, business entertainment, etc. paid for as legitimate business expenses by the new legal "entities." They also increased their options on certain retirement plans.
6. They saved an additional \$6120 on self employment taxes by splitting the \$80,000 in half and taking \$40,000 as salary and \$40,000 in distributions. The 15.3% self-employment tax for Social Security and Medicare (FICA) is "not" applicable on distributions.

In addition to all of the protection they received, the total tax savings for John and his wife should be well over \$8,000 per year. The total "one time" cost to set up both entities was approximately \$1500!

If you would like to find out more about how to protect your personal assets, and have the

government pay you to do it, call American Business Development toll free at 1-866-249-2472 for a free consultation. We would also love to have you visit our web site at www.abd2win.com where you can learn a little more about us, or send your questions by e-mail.

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