

PHYSICIAN'S Money Digest®

THE PRACTICAL GUIDE TO PERSONAL FINANCE

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Lock Down Your
**Asset
Protection
Strategy**

SAMPLE

Harness the Sun to
**Control Your
Fuel Costs**

Guard Against Personal Liability Threats | ASSET PROTECTION |

Dr. Lynder is an emergency room physician, and his wife is an attorney. Like many doctors today, he is not only concerned about the threat of a malpractice case, but how he can protect his personal assets. Many malpractice policies now contain a provision called “the hammer,” which stipulates that if the carrier decides to seek a pretrial settlement and the physician refuses, then the physician assumes personal liability for any amount awarded in excess of the settlement offer—even if covered by the policy.

“You try to save somebody’s life, and oftentimes you have to resort to some extreme procedures to do that, but in the back of my mind is the nagging realization that if I fail, the family will sue. I have a very successful practice. I earn a lot of money. I have a lot of assets,” says Dr. Lynder. “And I’m not sure how to protect everything I’ve built.”

Multiple Safeguards

Dr. Lynder is not alone in his fear. Like other physicians, Dr. Lynder needs to safeguard his assets from the threat of personal liability, and with more than a single line of defense. Use your practice’s accounts receivable as collateral for a loan from your bank, an asset that cannot be taken away since it is already

encumbered, to protect yourself from creditors. Also, if you own a medical office building in your name, a victorious plaintiff can claim it. Forming a limited liability company to hold the title can forestall such a maneuver.

Likewise, set up separate ownership companies for each rental property that you own. That way, if a tenant sues the company that owns the building, he cannot go after additional buildings to satisfy a judgment. Other defenses include assigning the deed to a family limited partnership or similar entity, mortgaging your house to the hilt to make it unattractive to creditors, or creating a qualified personal residence trust.

Although it seems like a good idea, physicians should beware of traditional offshore asset protection trusts. Because you must notify the IRS when establishing a trust, you automatically become a target for scrutiny. The IRS takes the position that an offshore asset protection trust means that you have something to hide.

Best Practice Strategy

Experts say that the best defense is to invest with estate planning in mind. This strategy holds up better in court because it does not appear as if you are only trying to avoid creditors or judgments against you. One of the best ways

to protect your assets is to invest in a Swiss annuity.

Most physicians are not aware that Swiss annuities even exist. Like a US annuity, a Swiss annuity is simply a contract between an insurance company and the policyholder. The major difference is Switzerland’s strict privacy law, the Switzerland Bank Secrecy Act of 1934, which makes the Swiss annuity creditor- and judgment-proof. Swiss insurance companies do not issue reports to any governmental agency upon the initial purchase of the policy, payments made into it, or interest and dividends earned.

Dr. Lynder and other physicians like him will benefit from deploying a variety of estate planning tactics to protect themselves from the perils of personal liability. When it comes to asset protection, the best defense is to put assets out of reach of judgments and creditors before the need ever arises. ■



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