

Asset Protection

Tax and Financial Aspects

Course Description

This informative course covers traditional planning tools and their utilization to protect assets. The Uniform Fraudulent Conveyance Act, the Bankruptcy Code and various aspects of the tax law are highlighted in describing asset protection aspects of corporations, partnerships, limited liability companies, family partnerships, trusts, retirement plans, insurance products and other conventional tools. Special topics include: protection against lawsuits, costs of long-term illness, divorce settlements, foreign asset protection trusts, statutory protections, homestead provisions, exempt assets, cancellation of indebtedness taxation and marital agreements.

Completion Deadline & Exam: This course, including the examination, must be completed within one year of the date of purchase. In addition, unless otherwise indicated, no correct or incorrect feedback for any exam question will be provided.

Course Level: Overview. This program is appropriate for professionals at all organizational levels.

CPE Credits: 18 (CPA, EA)

Category: Taxation

Prerequisite: General understanding of federal income taxation.

Advanced Preparation: None

Course Learning Objectives

Chapter 1: Introduction to Asset Protection

1. List the goals and purposes of asset protection, recognize the objections some people have about shielding assets from creditors, and state at least six reasons for asset protection.
2. Identify sixteen situations that can unexpectedly put assets and financial security at stake, and list eighteen common sources of lawsuits.
3. Recognize the author's concept of exploding and imploding liability and show how dealing with them is necessary for complete asset protection plan, and define the concepts of insurance, asset placement, and statutory protections when applied to asset protection.

4. Name three types of creditors associated with asset protection and fraudulent transfers noting salient characteristics as to each.
5. Outline the various fraudulent transfer provisions, particularly the uniform acts, which protect current and future creditors, list several badges of fraud in the Uniform Fraudulent Transfer Act and recognize their effect on transfers, state the statute of limitations and potential criminal penalties associated with such fraudulent transfers, and do the differences between fraudulent asset transfers and permissible asset transfers.
6. Define net worth using a balance sheet, identify asset values, and show the preparation of a balance sheet in the context of determining the depth and scope of suitable asset protection planning.

Chapter 2: Insurance

1. List the major characteristics of homeowner's, automobile, and disability insurance noting asset protection they may offer.
2. Name the four parties in whom rights are placed under a life insurance contract, list the benefits, uses and types of life insurance, identify three variables that influence whether life insurance is taxable for federal estate tax purposes, and state reasons for establishing an irrevocable life insurance trust in order to achieve several estate tax planning advantages.
3. Define annuities, state the types and characteristics of annuities, and list some of their tax advantages and disadvantages.
4. Identify buy-sell agreements, list the differences between an entity purchase agreement and a cross purchase agreement, and define purchase prices and terms of buy-sell agreements, risks of having stock as community property and concerns about shares held by professional corporations, S corporations, and sole shareholder planning.

Chapter 3: Asset Placement

1. Name nine basic ways to hold property, state what taxpayers must do before beginning an asset protection program, and list the advantages and disadvantages of holding property individually and through a sole proprietorship and how these pitfalls can be avoided.
2. List five basic guidelines that corporate business owners should follow to protect their corporations and two issues regarding potential personal liability for shareholders, officers and directors, identify six protection ideas for corporate business owners, and list six §469 passive loss restriction considerations.
3. List the advantages and disadvantages of using a corporation in asset protection planning, show the differences among the three categories of C Corporations, recognize the importance of S corporations and their estate tax planning advantages, and list the advantages and disadvantages of transferring farmland to a corporation.

4. Identify testamentary trusts, living trusts and at least eight subcategories of trusts, and state where changes may be necessary when using them for asset protection planning.
5. Show how different trusts are taxed with regard to income tax, estate tax and gift tax, outline the grantor trust rules and the effect of the treatment on owners for income tax purposes, and list the tax consequences of several trust types.
6. Recognize the various types of co-tenancy and their impact on asset protection and tax liability.
7. Define partnerships and their various types, name four ways that partnerships may be better than corporations from an estate-planning viewpoint, outline how partnerships are taxed and how estate freezing works to minimize death taxes on estate assets, and outline the structuring of family partnerships.
8. List the advantages and disadvantages of a limited liability company (LLC), the problems associated with its newness, and state how professional firms, joint ventures, and families can benefit from establishing LLCs.
9. Recognize how retirement plans can be used to provide substantial lifetime benefits to a business owner and to employees while simultaneously providing asset protection.
10. Identify important characteristics of custodianship and estates as asset protection tools.

Chapter 4: Bankruptcy

1. Outline the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, state how it changed the procedures, qualifications and tax law, implement important new changes, and identify the three most common types of bankruptcy filings that can influence how the individual or business "goes bankrupt."
2. List the rules of automatic stay and levy action, and state their impact on individuals and businesses who file bankruptcy, and on tax assessment and collection.
3. Show the differences between preferential and nonpreferential payments, and list the priority of creditor claims.
4. Define when debt is discharged under Chapter 7, Chapter 11, and Chapter 13 bankruptcies, identify how to establish an individual bankruptcy estate and the filing requirements of the estate, state the taxable income of the bankruptcy estate, and outline the special rules that apply to individual debtors, partnership bankruptcies, and corporate bankruptcies.
5. Define homesteading, distinguish debts that are covered under homesteading from those that are not covered, state the permissible garnishment rules for creditors, and list four special rules that apply in the garnishment area.

Chapter 5: Avoiding Tax on Debt Cancellation & Foreclosure

1. Recognize the effect that debt cancellation has on net worth and potential income inclusion from cancellation of indebtedness income, list six exceptions to the general income inclusion rule, and state their effect on the taxpayer.
2. List the tax attribute reductions in order and show their reduction of the amount of canceled debt, state the special basis reduction rules, recognize the depreciable property election permitting clients to reduce the basis of depreciable property before reducing any other tax attributes, define individual, partnership and S corporation bankruptcies, and identify at least three variables that are considered in determining whether shares of stock issued to a creditor are nominal or token.
3. Identify gain or loss resulting from foreclosure or repossession, state reporting and filing requirements, define the timing and character of the gain or loss, and show the hidden income tax danger of directly or indirectly acquiring one's own debt at a discount.

Chapter 6: Divorce Settlements & Divisions

1. Identify three formats that courts typically follow if a couple does not have an enforceable premarital agreement, and recognize post-nuptial and premarital agreements and how they relate to divorce settlements and divisions.
2. Show the application of §1041 to interspousal transfers, recognize the tax trap of deferred tax liability, and state the transferor's and transferee's property basis under §1041(b).
3. Identify deferred gain or loss associated with selling an interest in the marital residence, recognize the application of §1041 to selected business, retirement and investment assets, and list at least three conditions that must be met for a like-kind exchange to be nontaxable.
4. State the particular tax consequences resulting from the division of certain types of property between spouses or former spouses incident to divorce, and list the elements of a Qualified Domestic Relations Order (QDRO).

Chapter 7: Protecting Assets from Old Age & Catastrophic Illness

1. List four ways to manage an incompetent person's estate, define joint tenancy and its benefits, and identify at least three levels of conservatorship that can influence assistance in management and protection of an estate and/or personal care.
2. Recognize the concept of durable power and where changes may be necessary in elderly and disabled planning to maximize its use, and identify funded revocable living trust variations and their advantages.
3. List the basic eldercare benefits of Medicare and Medicaid, the five countable income and select assets for division into three separate groups under Medicaid.

4. Identify possible health care decisions such as having a living will, show the distinctions between Supplemental Security Income and Social Security disability benefits, define assets into two groups for SSI, and state requirements for SSI and Social Security disability benefits.