

# Asset Protection

## Tax and Financial Aspects

### Course Description

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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:** 16 (CPA, EA)

**Category:** Taxation

**Prerequisite:** General understanding of federal income taxation.

**Advanced Preparation:** None

### Course Learning Objectives

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#### Chapter 1: Introduction to Asset Protection

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

4. Specify the types of creditors associated with asset protection and fraudulent transfers recognizing their salient characteristics.
5. Identify the fraudulent transfer provisions which protect current and future creditors, the badges of fraud in the Uniform Fraudulent Transfer Act, applicable statutes of limitation, potential criminal penalties associated with fraudulent transfers, and the differences between fraudulent asset transfers and permissible asset transfers.
6. Determine 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. Identify characteristics of homeowner's, automobile, and disability insurance and what asset protection they may offer.
2. Specify persons in which rights are placed by life insurance and reasons to purchase life insurance and the benefits, uses and types of life insurance, identify variables that influence when life insurance is taxable for federal estate tax purposes, and cite reasons for establishing an irrevocable life insurance trust in order to achieve several estate tax planning advantages.
3. Determine what constitutes an annuity and the types and characteristics of annuities specifying their tax advantages and disadvantages.
4. Identify entity purchase and a cross-purchase agreements recognizing tax and legal advantages and pitfalls.

## **Chapter 3: Asset Placement**

1. Recognize ways to hold property, what taxpayers must do before beginning an asset protection program, and the advantages and disadvantages of holding property individually and through a sole proprietorship specifying how these pitfalls can be avoided.
2. Identify guidelines that corporate business owners should follow to protect their corporations, issues regarding potential personal liability for shareholders, officers and directors, protection ideas for corporate business owners, and §469 passive loss restriction considerations.
3. Specify the advantages and disadvantages of using a corporation in asset protection planning, the differences among categories of C Corporations, recognize the importance of S corporations and their estate tax planning advantages, and determine the advantages and disadvantages of transferring farmland to a corporation.
4. Identify testamentary trusts, living trusts recognizing subcategories of trusts, and changes necessary when used for asset protection.

5. Determine how different trusts are taxed with regard to income tax, estate tax and gift tax, identify the grantor trust rules and the effect of the treatment on owners for income tax purposes, and specify 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. Identify partnerships and their types, ways that partnerships may be better than corporations from an estate-planning viewpoint, how partnerships are taxed, how estate freezing works to minimize death taxes, and the structuring of family partnerships.
8. Specify the advantages and disadvantages of a limited liability company (LLC), problems associated with its newness, and 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. Determine how the 2005 Bankruptcy Act changed procedures, qualifications and tax law, and identify the most common bankruptcy types recognizing their influence on how an individual or business “goes bankrupt.”
2. Specify the rules for automatic stay and levy and their impact on “freezing” creditor activity, tax assessment, and collection.
3. Identify the differences between preferential and nonpreferential payments specifying the priority of creditor claims.
4. Recognize when debt is discharged under various bankruptcy types and how to establish an individual bankruptcy estate determining its taxable income and filing requirements, and identify the special rules that apply to individual debtors, partnership bankruptcies, and corporate bankruptcies.
5. Specify debts covered under homesteading, and determine permissible garnishment amounts recognizing special garnishment rules.

## **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, and specify exceptions to the general income inclusion rule and their tax impact.
2. Identify tax attribute reductions and their application when reducing canceled debt, cite the special basis reduction rules, recognize the depreciable property election in reducing the basis of depreciable property before reducing any other tax attributes, determine what constitutes

individual, partnership and S corporation bankruptcy, and specify the variables used in determining whether shares of stock issued to a creditor are nominal or token.

3. Determine gain or loss resulting from foreclosure or repossession identifying reporting and filing requirements, specify the timing and character of the gain or loss, and cite the hidden income tax danger of directly or indirectly acquiring one's own debt at a discount.

## **Chapter 6: Divorce Settlements & Divisions**

1. Identify the formats that courts typically follow if a couple does not have a premarital agreement and post-nuptial and premarital agreements including how they relate to divorce settlements and divisions.
2. Determine the application of §1041 to interspousal transfers, the tax trap of deferred tax liability, and the transferor's and transferee's property basis under §1041(b).
3. Specify the 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 identify conditions that must be met for a like-kind exchange to be nontaxable.
4. Recognize tax consequences resulting from the division of certain types of property between spouses or former spouses incident to divorce, and identify the elements of a Qualified Domestic Relations Order (QDRO).

## **Chapter 7: Protecting Assets from Old Age & Catastrophic Illness**

1. Specify ways to manage an incompetent person's estate, determine joint tenancy and its benefits, and identify the 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 specifying how to maximize its use, and identify funded revocable living trust variations and their advantages.
3. Determine eldercare benefits of Medicare and Medicaid, countable income and asset groups under Medicaid.
4. Identify possible health care decisions such as having a living will, determine the distinctions between Supplemental Security Income and Social Security disability benefits, identify asset groups for SSI, and specify requirements for SSI and Social Security disability benefits.