Shielding your wealth: Creditor protection for business owners and professionals

Creditor protection can be a critical aspect of financial planning and may shield your assets against potential claims and legal actions. Learn some of the key principles.

Are your personal assets protected from your creditors?

While no plans are foolproof, here are a few approaches to consider. Think of them as discussion prompts to use with financial and legal advisors, since this is an area in which you'll need expert guidance.

At its core, creditor protection is a financial strategy designed to help shield assets from the reach of creditors in case of future bankruptcy or lawsuits. The laws and regulations governing creditor protection differ depending on the province. The federal Bankruptcy and Insolvency Act can also apply in some cases.

Note that it's important to avoid something called "fraudulent conveyance." For example, if you are trying to avoid creditors and bankruptcy is imminent, then the courts could challenge the creditor protection of your assets. Assuming that is not the case, there are common principles governing the steps you may want to take. These can include:

1. Incorporating

A corporation is a separate legal entity from its shareholders. A shareholder's personal assets (aside from the corporate shares) are then protected if the corporation gets sued or goes bankrupt unless a shareholder has given personal guarantees for corporate liabilities.

2. Investing your money in a registered plan

Registered Retirement Savings Plans (RRSPs) and Registered Retirement Income Funds (RRIFs) are generally protected from creditors in the event of bankruptcy, except for contributions made within 12 months before the date of filing (subject to specific limitations).

Registered Pension Plans (RPPs) and Retirement Compensation Arrangements (RCAs), if they are available to you, are also useful—these generally provide strong creditor protection, and the income they generate is safeguarded from creditors.

Registered Education Savings Plans (RESPs) do not generally enjoy creditor protection. However, if you live in Alberta, they can have this kind of protection.

3. Purchasing a personally owned insurance policy and naming a qualified beneficiary

In most provinces and depending on the circumstances, the cash values of personal insurance policies that have qualified beneficiaries may be protected from the estate's creditors while you are alive. In addition, the death benefit paid to a beneficiary is not subject to the estate creditors. Qualified beneficiaries vary according to provincial laws. For example, they may include a spouse and children.

Learn more about [life insurance policy ownership.]()

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4. Investing in a personally owned non-registered segregated fund and naming a beneficiary

Like insurance contracts, segregated fund contracts allow policyholders to designate beneficiaries, ensuring that the proceeds are paid directly to the named individuals upon the policyholder's death. This potentially safeguards the invested assets from the estate creditors. In addition, you can also get protection for the invested asset while you are alive by naming a qualified beneficiary. You can find more information on the wealth transfer benefits of segregated funds in this article or this infographic.

Creditor protection can be a critical aspect of financial planning that can help provide you with a shield against potential claims and legal actions.

If you think there's a possibility this kind of protection could be useful to you, or to those who depend on you, consult with an advisor to develop a strategy that reflects your situation and goals. Expert advice is strongly advised: If you're ever in need of creditor protection, you want your shield to hold.

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