Tailoring Your Asset Protection Plan to Your Career Stage

By Robert J. Mintz, JD
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The type of asset protection planning you need depends on where you are in your career. Because the amount and form of your investments and the particular risks you face will vary over time, your initial planning should be appropriately flexible and capable of adjusting to meet these changing needs.

Starting practice
Physicians at the start of their career must address two key issues. First, they should set up a good business plan and determine which legal entity they will use for their practice. Sometimes a C or S Corporation may be the best choice; other situations may call for an LLC or sole proprietorship. The goal is to select the option that confers the best tax results and lawsuit liability protection (see "Pros and Cons of Professional Corporations" at http://www.rjmintz.com/wp-content/uploads/2011/01/prosconsprofessionalcorporations.pdf).

The next step is to create a plan that will protect personal assets from business liabilities. The best early career plan is to allocate enough income to pay personal bills, loans, and household expenses and place remaining income intended as savings for a home or other investments into a protected entity such as a family limited partnership or family savings trust (see "Asset Protection Strategies" at http://www.rjmintz.com/wp-content/uploads/2011/01/MDNetGuideMarch2004.pdf). With a plan in place, the business of the practice will be well organized and efficient from a legal and tax standpoint and personal assets can accumulate in a protected fashion. Proper basic asset protection planning provides a foundation on which to build more advanced strategies as your needs change over time.

Mid-career planning
After a number of years in practice, with some good luck and planning you can build a comfortable lifestyle and retirement nest egg. Although it's hard to believe right now, even your family home will probably have substantial equity at some point and you may also have other business ventures or investments.

The flipside of this is that as wealth builds over time, the degree of liability risk also increases. Unlike other business owners who can use corporations or LLCs to limit their risk of personal exposure, physicians and other professionals cannot insulate themselves from malpractice liability. Additionally, a busy practice may increase the odds of lawsuits and disputes not only from patients, but also from employees, partners, insurers, and other business associates.

As savings and investments grow and diversify, asset protection needs generally broaden to include protection for the family home, investment real estate, and other business interests. Potential strategies include a personal residence trust for your home, one or more LLCs for properties and business interests, and perhaps a children's trust to minimize tax on appreciating assets. Estate planning with wills, living trusts, and appropriate insurance becomes an important part of the overall plan. You may also want to consider buy-sell agreements among business partners designed to establish a firm plan to tackle the economic issues associated with retirement or death. Some of our more entrepreneurial clients sometimes incorporate offshore LLCs or trusts into their planning (see "Is Offshore the Right Asset Protection Choice?" at http://www.rjmintz.com/wp-content/uploads/2011/01/MDNetGuideNovember2004.pdf).

Retirement
By the time they are ready to retire most physicians' lawsuit risks have diminished substantially and their asset protection needs shift to maximizing their income and reducing potential estate taxes. Physicians who want to work on a part-time basis may encounter problems with insurance coverage, the cost of which can be quite high relative to the potential income, creating a continuing liability risk. Also, pediatricians and obstetricians may face continuing liability issues because the statute of limitations for claims is extended until minor patients reach legal age. So even after retirement they may need tight asset protection coverage for a number of years.

As your wealth grows (or shrinks) and the asset mix changes, your asset protection planning should accommodate what you have and the degree of risks you face at that point in your career. A solid basic structured plan in the early years can be added to and enhanced as life and business grow more complex.