“The 6 Deadly Mistakes Made by Business Owners And Easy Ways To Avoid Them”

– One in every four small businesses has been sued or threatened with a lawsuit in the past five years.

– I recently read that a lawsuit is filed every 2.08 seconds – the equivalent of the blink of an eye.

– One lawsuit can damage or destroy your livelihood, forcing you to close your doors.

As a result, doctors are forced to spend ungodly amounts of money on malpractice insurance reducing their take home.

Mistake Number One - Not having the right pension plan.

Having an IRA or other non-ERISA plan may subject your nest-egg to vulnerabilities if a malpractice suit carries over to your personal assets. This could happen if the Plaintiff prevails and your insurance limits are inadequate or there is a limitation or exclusion in your policy.

O.J. Simpson is the best example of an absolute protected pension plan under ERISA. ERISA stands for the Employee Retirement Insurance Security Act and protects pension plans even in a bankruptcy as an exempt asset. Mr. Simpson enjoys approximately $30,000 per month with a multi-million dollar judgment over his head.

There are plans that allow you to put away $100,000 or more per year depending on your age and census of your employees.

Mistake Number Two - Not understanding the implications of how you own your real property.

Many folks hold all their property as themselves, jointly, or as “joint tenants”. In some cases this can work, but in many cases it can be the cause of an expensive and devastating mistake.

With the proliferation of mold cases mounting, it is a best practice to not hold investment property in your own name. Therefore, a person should use a limited liability entity to hold the property creating a prophylactic between you as a person and any liabilities stemming from the property.

Mistake Number Three - Not knowing which estate-planning document to use so you’ll avoid lawsuits

Should I use a revocable or irrevocable trust and should it be domestic or foreign?

A lot of folks don’t know that a **revocable trust is only for avoiding probate but offers no creditor protection.**

Depending on timing when a person is sued, there are great opportunities with the right irrevocable domestic trust. **On the other hand, there are some really great offshore solutions that allow you to participate in the global equity markets and are experiencing much higher gains than the U.S. market.**

There is also one super investment tool that is protected and avoids capital gains providing far better returns than mutual funds and independent stock investments.

Mistake Number Four – Holding Too Much Equity in Your Home.

If a creditor can’t get at cash, they go after real estate. The best place to start is with the roof over your head. Most states are experiencing record appreciation which means there is a lot of equity in many homes.

But how much interest is this equity earning? There are products where you could be investing some of the equity proceeds and earning more than you’re paying for the loan. The wise person leverages everything, earns on that leverage and tries to reduce ownership.

Some superior mortgage products are on the market that will keep your equity down while you live in the home. At first blush, it sounds contrary to common thinking. Nonetheless, the wealthy person puts everything at their disposal to work to create extraordinary wealth, even home equity.

While you’re in practice it makes more sense to tie the money up in investments that earn and keep your home safe.

However, the key is planning. If you don’t take time to analyze your situation, explore your options, and design a game plan, when your insurance denies coverage it will be too late!

Mistake Number Five – Not protecting accounts receivable

It’s amazing to me that **many medical and dental practices go to the trouble and the effort to set up accounts, and then don't take the time to use those accounts to create more wealth while protecting it.**

You can legally hypothecate (hī-pŏth'ĭ-kāt') or pledge (property) as security or collateral for a debt without transfer of title or possession. There is **a system out there that really smart doctors are using to protect their accounts receivable and create supplemental retirement income**.

What I mean is, make sure everything is out of reach of a financial predator and leave nothing to chance.

If you don't take this necessary step, all the time and money you spent to set up your business will be completely shattered.

Mistake Number Six- Procrastinating

This is **likely the biggest and most costly mistake** health professionals make.

If you want to avoid these outcomes, you need to take a little bit of time out of your schedule and plan.

The truth is with proper planning almost anyone can dramatically improve their estate, business and retirement plan.

Due to the complexities of estate preservation planning ("Asset Protection") and the many changes slated to occur, it's extremely difficult to explain each application of these strategies here in print.

While one client may be able to benefit from a strategy by using it one way, another client may be able to benefit from a different application of the same strategy. Everyone's situation is like a snowflake, no two are alike.

Details of this strategy and others, as well as how to contact us for more information is attached.

A Common Error Could Be Costing You Thousands Annually

Are you an owner of a medical practice taxed as a flow-through entity… such as an S-corporation? Most physicians are "partners" in their practice and are in this situation. As such, they are paid both as an employee of the practice – as a w-2 – and as an owner of the practice – as an S-corporation owner through a k-1 distribution. **The key difference between income earned as a w-2 and that earned through a k-1 is that you pay FICA (Medicare and Social Security) tax on the income earned as a w-2 but not on k-1 distributions**. While the large Social Security portion of FICA phases out after income of $90,000, the 2.9% Medicare tax has no phase-out.

While 2.9% in tax might not be the end of the world, this poor advice can cost physicians $10,000 or more each year, every year of their career. <u>Over their career, this can amount to nearly half a million dollars of lost capital… for no good reason!</u>

Let's look at two examples. Do you see yourself in any of these?

1. Dr. Smith is part of a 3-doctor cardiology practice. He earns about $400,000 annually as a cardiologist. He calls the 2 other doctors "partners" but technically they are co-owners of the practice, an S-corporation. Each month, Dr. Smith gets paid $20,000.

Then at the end of each six-month period, he gets another $80,000 or so based on the practice's performance. His accountant deems both the monthly and semi-annual payments to be salary payments. Thus, he pays Medicare tax on all $400,000 for a tax of $11,600. This, of course is in addition to state and federal income taxes, property taxes, etc. If he works for 25 years earning the same income, he will have lost over $550,000 in Medicare taxes, assuming a 5% growth rate.

2. Down the road, Dr. Jones is in the exact same economic situation. However, his CPA treats the monthly payments as w-2 wages and the semi-annual payments as k-1 distributions. Thus, he pays Medicare on $240,000 for a cost of $6,960. If Dr. Jones works for 25 years earning the same income, he will have lost about $330,000 in FICA taxes, assuming a 5% growth rate – an improvement of over $220,000 over Dr. Smith.

Obviously, any of you reading here would not want to be Dr. Smith. Yet, we are continually astounded when see so many physicians come to us in the same position – having all, or most, of their income treated as w-2. Wouldn't all of us prefer to be in Dr. Jones' situation? If we are allowed to be – yes. So, the question really comes down to – what are the tax rules that govern this situation?

In discussions with a number of CPAs with years of experience, the consensus is that one should follow a simple rule of thumb. That rule is basically that one can reasonably be paid as a w-2 salary that accords with what one would need to pay a young associate physician with the same training to come join your practice. The rest of your compensation can be characterized as distributions. One CPA commented, "This is what I do for my clients, and when the issue has been discussed in audits over the years, the IRS finds it very difficult to argue that our client should be paid more on their w-2 than a staff member doing the same job."

Looking again at the examples above, Dr. Smith could easily attract a young cardiologist to his practice paying $250,000 salary. This would allow him to avoid Medicare tax on $150,000 – saving over $4,000 annually. Not by accident, Dr. Jones is in the right situation.

As hard as physicians work, throwing away hundreds of thousands of dollars over a career – for no good reason – is a shame. Yet it happens every day.

If you have concerns about how your practice is reporting or you feel vulnerable to threats and would like to reduce your malpractice insurance with a peace of mind, give us a call.

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