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A monthly newsletter for Accounting, and Financial Professionals with a focusing on Estate Planning, Elder Law, and Special Needs Persons.

The Planner is a newsletter to inform and educate Accounting and Financial Professionals of the ever changing areas of estate taxes, and elder law to better service their clients.



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An Introduction to Planning for Doctors

Doctors' need for asset protection planning is unaffected by the current economic downturn. As a result, many advisor teams either work with, or would like to begin working with, doctors (physicians, surgeons, dentists and chiropractors). This issue examines the personality traits of physicians and surgeons, as well as introduces the asset protection and estate planning needs of doctors.

Doctors Need Asset Protection

Two strong indicators of the need for and willingness to plan for asset protection are having wealth and having a high income. Many doctors have both of these indicators. According to recent statistics, the wealthiest 10% of U.S. physicians and surgeons control over \$350 Billion dollars in wealth. In what is currently an almost recession-proof business, 95% of the 700,000 to 1,000,000 U.S. physicians and surgeons earn over \$250,000 per year. That is 665,000 to 950,000 U.S. physicians and surgeons.

Another strong indicator of the need for and willingness to plan for asset protection is being in a profession whose members are more likely than average to be sued. Here, again, we find doctors. Nearly 100% of neurosurgeons, cardiovascular surgeons, and OB-GYNs will be sued at least once during their careers, as will 90% of general surgeons and radiologists. In fact, each year, 50% of the U.S. neurosurgeons, and 33% of U.S. orthopedic and trauma surgeons and emergency room (ER) physicians are sued. Other types of doctors are also sued far more often than those in other professions. Being sued is a very personal and painful experience.

Planning Tip: All doctors need asset protection in their estate planning.

Doctors' View of Lawyers and the Legal System Generally

Doctors believe that the legal system attacks their

judgment and integrity in a very personal way, and that lawyers (including judges) are not deserving of high levels of trust. When a combined American Bar Association and American Medical Association survey asked what lawyers could do to improve the relationship between them and physicians and surgeons, the physicians' and surgeons' response was, "change the legal system." Their distrust was much more of the legal profession in general than of the individual lawyer. The lawyers' response to the same question was simply, "trust us."

Planning Tip: Most doctors' disdain for lawyers and the legal profession is directed at personal injury lawyers, so it is important that the lawyer team member distinguish him or herself from those lawyers.

Other significant factors affecting relationships between doctors and lawyers include:

- Doctors are trained to trust what they are told whereas lawyers are trained to question everything
- Lawyers and doctors most often interact when there is a problem for the doctor
- Doctors feel lawyers get a free pass as a profession because the ultimate arbiter, the judge, is one of "them," not a member of the medical community
- Both lawyers and doctors feel that the other profession does not understand theirs

Planning Tip: We live in a victim-oriented society, and doctors are viewed as a deep pocket that can afford to pay for an injury. When combined with the above statistics and their views on plaintiff lawyers, doctors are generally quick to understand the need for asset protection planning.

Doctors Generally

Doctors are caring and intelligent people whose training is to be trusting and non-confrontational. Sometimes that trusting gets them into trouble, as when they fall prey to pitches for risky planning or what turns out to be a risky investment.

Doctors have all sacrificed years of their lives and most have made heavy financial sacrifices to get where they are.

They want to protect whatever wealth they accumulate from what they believe is a flawed legal system. However, as indicated above, they have very low trust in our legal system.

Planning Tip: Doctors' personality traits increase the likelihood that they will move forward with the planning team's recommendations if those recommendations are presented properly. The planning team can harness doctors' trusting nature, their intelligence and their distrust of the legal system to guide them to implement critical asset protection planning.

Doctors are also very much more tightly scheduled than most clients. Therefore, the planning team that will meet the doctor where and when best works with the doctor's schedule, including in the evening or on a weekend, is far more likely to have success than a team that insists the doctor accommodate their schedules and meet in the planning team's offices.

Differences Among Doctors Personality Type

Doctors are definitely not all the same personality type. Those whose usual day is filled with taking immediate decisive action, such as surgeons and ER physicians, most often want their team to "cut to the chase" and give the proposal first and the rationale second, if asked for. On the other hand, doctors whose patients' course of treatment may extend over days, weeks, months or even years generally are typically more contemplative. Therefore, like engineers, they are usually more comfortable when given a logical analysis of the options, and the advantages, disadvantages, risks, and potential rewards of each that were considered by the planning team before being given the team's recommendation.

Hospital or Office?

Another distinction can be made among doctors and how best to work with them based on where they practice. ER doctors, hospitalists, some OB/GYNs and some specialty surgeons (plastic, neuro- and orthopedic) have contracts with hospitals or surgicenters that set hours and days when they will be present or on call. Some do not have a separate practice of their own except, perhaps, on the side. Many of these doctors have set hours and do not have continuing patient obligations that require them to be available for emergency calls from their patients other

than as established by their contracts.

Doctors with that sort of practice are often more able to accommodate the planning team's schedule. Dealing with them is often like dealing with a corporate executive. Doctors who work under contract are also often very entrepreneurial and, because they have set hours of work, they have more time to be involved in extracurricular activities and business pursuits. Dealing with them is often like dealing with airline pilots.

Planning Tip: In setting an appointment for a doctor who has a schedule fixed by someone else and on-call hours, make sure that your meeting is not on the day after they have been on call. Being on call often leaves a doctor sleep deprived.

Planning Tip: Doctors are very a close-knit group. Working with one doctor in a practice area often leads to work with many other doctors in the same area and beyond, through word-of-mouth referrals. Conversely, not all doctors are the same - thus it is important to distinguish between the types of doctors and their personality traits, and approach the particular doctor accordingly.

Planning for Doctors

Doctors are no different from other businessmen and women in the probability that they will have done basic estate planning and that the plan is up to date. While asset protection is their "hot button" issue, the planning team should review the basic planning to make sure that documents are proper and up to date, there is adequate life insurance, and an appropriate wealth accumulation plan has been established and is being implemented.

First, doctors need assistance with the proper structure for their practice, which typically includes at least the following:

- Professional corporations
- Subchapter S elections
- Shareholder agreements
- Segregation of assets

Next, to reduce the risk of liability exposure, consider segregating doctors' assets as follows:

1. Place the real estate in an LLC and lease it to the doctor's professional practice or business;
2. Place the office and medical equipment in an LLC and lease it to the doctor's professional practice or business; and
3. Create a separate liability-protected entity to provide business or practice functions and operations other than the actual medical treatment.

Planning Tip: Doctors need asset protection planning to protect both their medical practices (including assets such as equipment and real estate) and their personal assets (such as homes, investments, etc.).

With the basic asset protection structure in place, consider basic and more advanced estate planning including (in increasing order of need and complexity):

- Exemption and marital planning.
- Liability-protected entities for investment assets.
- Domestic and/or offshore self-settled asset protection trusts.
- Advanced estate planning strategies to reduce estate tax liability and shift wealth to younger generations.

Planning Tip: With doctors in long-time stable marriages, one relatively simple option is to transmute (i.e., convert) the separate property or jointly held interest of the professional spouse into the separate property of the non-working spouse. Note, however, that this will inure to the benefit of the non-working spouse upon divorce.

Conclusion

Given their wealth and the likelihood that they will be sued, doctors desperately need planning to protect their medical practices as well as their investments and other assets. Therefore, it is incumbent upon the planning team to help educate doctors as to these issues and to work together to provide comprehensive planning that meets doctors' needs.

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