

Asset Protection Newsletter

If you did not look after today's business then you might as well forget about tomorrow.

– Isaac Mophatlane



**Welcome to Our June 2014
Asset Protection Newsletter!**

Why use LPs instead of LLCs?

LLCs are becoming more popular and are fast replacing LPs. We almost always use LLCs to title non-residential real estate and to operate businesses but we still prefer LPs to title safe liquid assets, particularly when their owners have a taxable estate. The LP has a long track record for protection and, in some states, provides superior protection over the LLC. But there are many tax, financial planning, regulatory and other considerations when choosing an entity. So a comprehensive plan for a client may include a number of different entities S and C corporations, LPs, LLCs, trusts, and so forth.

Many practitioners prefer to use an FLP instead of an LLC for estate tax reduction. This is because FLPs are tried and true, and have a plethora of case law to support their efficacy. However, it is possible to structure an LLC like an FLP for the purposes of estate tax reduction. There is no case or statutory law that would prohibit this. At the same time, LLCs have not been as battle-proven in court as has the FLP.



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June 25, 2014

**The Approximate Length for the
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Important Changes in Florida Law

Latest update: In June of 2010, the

To make certain an LLC is taxed like an FLP, it should be structured like an FLP. Namely, the company should have limited members (a member in an LLC is equivalent to a partner) and managing members, and it should be taxed as a partnership. It should also have all the characteristics of an FLP.

With the more battle-tested track record of the FLP, one might ask: Why would anyone wish to form an LLC instead of an FLP? An LLC has some other benefits that an FLP does not. We can mention three: First, the LLC may exist perpetually (LPs typically may only exist for 30 years). Secondly, the LLC enjoys limited liability for managing members as well as limited members. Remember, the general partner (manager) of an LP has unlimited liability. Thirdly, after the death of the partner, an LLC may elect to be taxed as a C or S corporation. An LP must use partnership taxation without exception.

How do S Corporations and LLCs differ?

An LLC is a similar entity to an S corporation since the owners of both entities enjoy limited liability and both entities can be taxed as either a proprietorship or partnership. An LLC member's risk is also limited to his loss of investment. However, a chief protective advantage of the LLC over the S corporation is that the LLC affords you more ownership options. For example, your LLC can be owned by a family limited partnership (FLP), a trust, another corporation, etc. S corporation shares cannot be owned by these entities. Their stock ownership is restricted to individuals. Both estate and asset protection planning then become more difficult with S corporation shares.

More importantly, an ownership interest in an LLC is considerably more creditor protected than are shares in an S corporation which can be easily seized by a stockholder's personal creditors. A member interest in an LLC is creditor protected in the same way a partnership interest in a limited partnership is protected. A member's personal creditor is limited only to a charging order against the LLC interest, which gives the creditor only the right to receive distributed profits due the debtor partners.

There are still a few advantages of an S corporation over an LLC: (1) An S corporation can be more tax advantageously acquired by another business; (2) S corporation owners pay employment taxes only on their salaries, while LLC owners pay employment taxes on all profits; and (3) State taxes may be lower for an S corporation.

What is Probate?

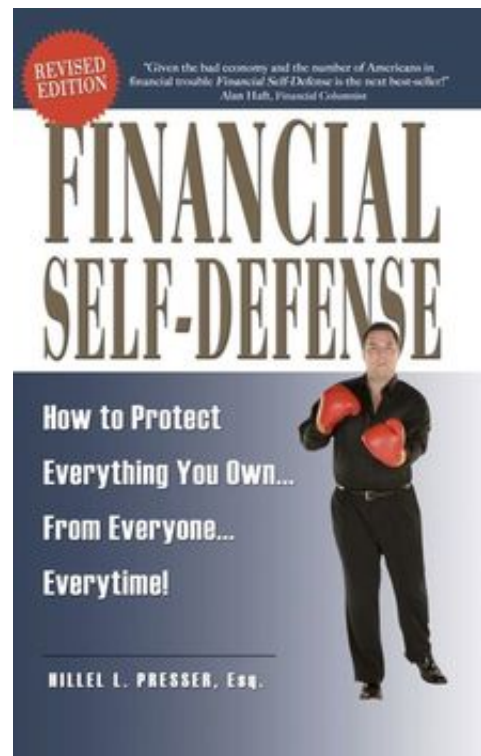
Florida Supreme Court held in *Olmstead v. Federal Trade Commission* (No. SC08-1009) that a charging order is not the exclusive remedy available to a creditor holding a judgment against the sole member of a Florida single-member limited liability company.

Be one step ahead, keep following our newsletter for up to date changes in the law!

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Probate is a legal process that takes place after someone dies. It could include administering a deceased person's will, identifying proper beneficiaries for the deceased person's assets, having property appraised, and paying debts and taxes.

Only assets held individually, without a designated payable on death beneficiary, go through probate. For example — life insurance in your children's name would not go through probate at your death. Another example is a bank account with payable on death beneficiaries.

It is very important to note that probate cannot be avoided simply by having a Will. Probatable assets in a Will still go through Probate, however, they pass to the people whom you have designated as proper beneficiaries. If there is no Will, then the probatable assets will pass according to the state law.

The Presser Law Firm, P.A. - Asset Protection Attorneys

The Presser Law Firm, P.A. represents individuals and businesses in connection with the establishment of comprehensive Asset Protection plans that incorporate both domestic and international components.

We help our clients protect themselves from lawyers, malpractice claimscreditors, foreclosure deficiencies, former or current spouses, children, relatives, and greedy lawsuit-obsessed citizens. While many people can make money, few know how to protect it.

In addition to Asset Protection, The Presser Law Firm, P.A. represents individuals in the areas of business formation, legal and business counsel, estate planning, and estate administration (wills and trusts).

We have been featured in numerous newspapers and magazines, among them Forbes, Sports Illustrated, The Robb Report, The Houston Chronicle, and The Los Angeles Times. We have also appeared on several radio and television stations such as FOX, BRAVO, NBC, ABC, and CBS and have been profiled in the international press in Canada, Germany, Greece, Ireland, and the United Kingdom. We have represented some of today's most well known business owners, celebrities, and professional athletes.

We have been working around the clock to improve our Firm's online presence to ensure that you receive the most up-to-date information on how to protect everything you own from everyone, every time. We will be constantly updating our social media with new cutting edge information, just click the links above to follow us.

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Info@AssetProtectionAttorneys.com.

For every 60 minutes you spend making money, spend 60 seconds thinking about how to protect it!



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Best Wishes,

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