



51A Middle Street Newburyport MA 01950
Phone: 800-588-7039 Fax: 877-902-4284
contact@bhfe.com www.bhfe.com

Course Information

Course Title: *Tax Guide to Asset Protection #490223*

Recommended CPE credit hours for this course

In accordance with the standards of the National Registry of CPE Sponsors and the IRS, CPE credits have been granted based on a 50-minute hour.

CPA 2 (Accepted in all states)

National Registry of CPE Sponsors ID Number: 107615.

Sponsor numbers for states requiring sponsor registration:

Florida Division of Certified Public Accountancy: 4761 (Ethics #11467)

Hawaii Board of Public Accountancy: 14003

New York State Board of Accountancy: (for ethics) 002146

Ohio State Board of Accountancy: M0021

Pennsylvania Board of Accountancy: PX178025

Texas State Board of Accountancy: 009349

EA/OTRP: 2 (All States) IRS: Qualified Sponsor number: *FWKKO*.

Course Description

The current litigation explosion has created tremendous Interest in asset protection. Not only does this area have financial and estate aspects but it directly impacts tax planning.

This mini-course is designed to survey opportunities for asset protection that can arise during tax planning and to determine how to properly report such transactions.

Course Content

Publication/Revision Date: 1/30/2023.

Author: Danny Santucci, J.D.

Final exam (online): Ten questions (multiple-choice).

Program Delivery Method: Self-Study (NASBA QAS Self-Study/interactive)

Subject Codes/Field of Study

NASBA (CPA): Taxes.

IRS (EA, OTRP): Federal Tax Law.

NAPFA: Taxes

Course Level, Prerequisites, and Advance Preparation Requirements

Program Level: NASBA/CPA, IRS: Overview.

This program is appropriate for professionals at all organizational levels.

Prerequisites: Basic familiarity with federal taxation

Advance Preparation: None

Instructions for Taking This Course

- Log in to your secure account at www.bhfe.com. Go to "My Account."
- You must complete this course within one year of purchase (If the course is "Expired," contact us and we will add the latest edition of the course to your account (no charge).
- **To retain the course-PDF after completion (for future reference) and to enable enhanced navigation:** From "My Account," Download and save the course-PDF to your computer. This will enable the search function (Menu: Edit>Find) and bookmarks (icon on left side of document window).
- Complete the course by following the learning objectives listed for the course, studying the text, and, if included, studying the review questions at the end of each major section (or at the end of the course).
- Once you have completed studying the course and you are confident that the learning objectives have been met, answer the final exam questions (online).

Instructions for Taking the Online Exam

- Log in to your secure account at www.bhfe.com. Go to "My Account."
- A passing grade of at least **70%** is required on the exam for this course.
- You will have three attempts to pass the exam (call or email us after three unsuccessful attempts for instructions).
- The exam is not timed, and it does not need to be completed in one session.
- For a printed copy of the exam questions, open the exam and press "Print Exam."
- Once you pass the exam, the results (correct/incorrect answers) and certificate of completion appear in "My Account." A confirmation email is also sent.
- CFP Board and IRS credit hours, if applicable, are reported on Tuesdays and at the end of the month.

Have a question? Call us at 800-588-7039 or email us at contact@bhfe.com.

Learning Assignment & Objectives

As a result of studying the assigned materials, you should be able to meet the objectives listed below.

ASSIGNMENT

At the start of the materials, participants should identify the following topics for study:

- * Basic protection concepts & fraudulent transfers
- * Insurance
- * Individual titles and sole proprietorship
- * Corporations
- * Trusts
- * Co-tenancies
- * Partnerships
- * Limited liability companies
- * Marital property & separate property
- * Premarital & post-nuptial agreements

Learning Objectives

After reading the materials, participants will be able to:

1. Recognize misconceptions about and the main reasons for asset protection, determine fraudulent transfers stating how to structure asset protection planning transfers so that they are *not* fraudulent, identify goals associated with undertaking asset protection measures, and specify how life insurance can be used as an asset protection vehicle.
2. Identify how the various types of entities relate to asset protection and how the various types of joint ownership of property and various trusts directly impact asset protection and tax liability.
3. Determine the concepts of common law property, community property, and equitable ownership specifying which states base distribution laws on those concepts, specify asset division principles, and recognize premarital and post-nuptial agreements and how they can be used to advise clients in individual asset protection.

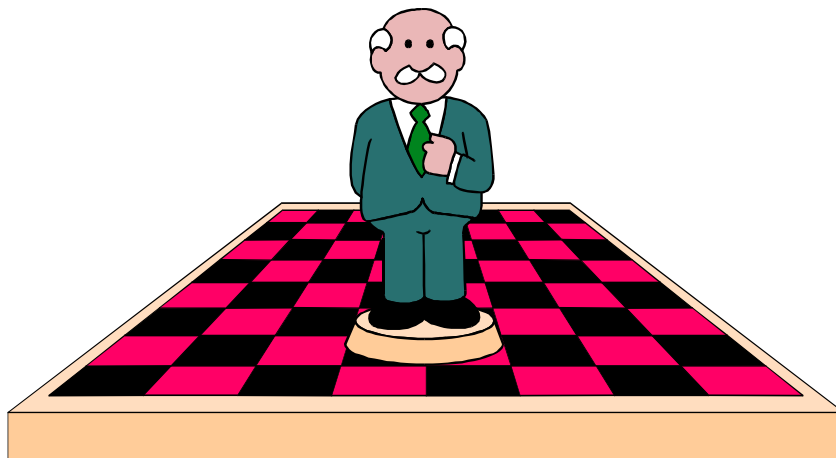
After studying the materials, answer exam questions 1 to 10.

Notice

This course and test have been adapted from materials and information contained in the above text and any supplemental material provided. This course is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional advice and assumes no liability whatsoever in connection with its use. Since laws are constantly changing, and are subject to differing interpretations, we urge you to do additional research and consult appropriate experts before relying on the information contained in this course to render professional advice.

Tax Guide to Asset Protection

By
Danny C. Santucci



The author is not engaged by this text, any accompanying electronic media, or lecture in the rendering of legal, tax, accounting, or similar professional services. While the legal, tax, and accounting issues discussed in this material have been reviewed with sources believed to be reliable, concepts discussed can be affected by changes in the law or in the interpretation of such laws since this text was printed. For that reason the accuracy and completeness of this information and the opinions based thereon cannot be guaranteed. In addition, state or local tax laws and procedural rules may have a material impact on the general discussion. As a result, the strategies suggested may not be suitable for every individual. Before taking any action, all references and citations should be checked and updated accordingly.

This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional service. If legal advice or other expert advice is required, the services of a competent professional person should be sought.

—From a Declaration of Principles jointly adopted by a committee of the American Bar Association and a Committee of Publishers and Associations.

Copyright January, 2023

Danny Santucci

Table of Contents

Asset Protection.....	1
Why Asset Protection?.....	1
Situations That Create Danger.....	3
Sources of Lawsuits.....	5
Basic Protection Concepts.....	7
Types of Creditors.....	9
Evading Creditors.....	9
Fraudulent Transfers.....	10
Badges of Fraud.....	11
Statute of Limitations.....	13
Criminal Penalties.....	13
Permissible Asset Transfers.....	14
Asset Protection Goals.....	14
Insurance.....	15
Homeowners Insurance.....	16
Automobile Insurance.....	16
Disability Insurance.....	17
Life Insurance.....	17
Life Insurance Trust.....	18
Buy-Sell Agreements.....	18
Definition.....	18
Ownership Vehicles & Entities.....	19
Individual Titles & Sole Proprietorship.....	19
Individual.....	19
Sole Proprietorship.....	20
Corporate.....	21
C Corporation.....	22
No Pass Through.....	22
The S Corporation - §1361.....	23
Trusts.....	25
Types of Trusts.....	26
Revocable Trust.....	26
Land Trusts.....	27
Irrevocable Trusts.....	27
Testamentary Trust.....	28
Business Trusts.....	28
Foreign Trusts - §679 & §1491.....	29
Asset Protection Trusts - APTs.....	29
Family Trusts.....	32
Medicaid Trust.....	32
Grantor Retained Income Trust.....	32
Co-Tenancy.....	33
Tenancy in Common.....	33
Percentage Interests.....	34
No Survivorship.....	34
Joint Tenancy with Right of Survivorship.....	34

Percentage Interests.....	35
Tenants by the Entirety.....	35
Partition	35
Partnership.....	35
Partnership Taxation.....	36
Family Partnerships.....	36
Charging Orders.....	36
Phantom Income to Creditor.....	37
Tax Issues.....	37
Estate Savings.....	37
Income Tax Savings.....	37
Limited Liability Company.....	38
Suggested Uses	39
Professional Firms	39
Joint Ventures.....	39
Substitute for Family Limited Partnership.....	39
Retirement Plan.....	40
Custodianship.....	40
Estate.....	41
Divorce	41
Marital Property.....	42
Common Law Property.....	42
Community Property	42
Equitable Distribution.....	42
Separate Property	43
Asset Division Principles.....	43
Prenuptial Agreements	44
Uses & Benefits.....	45
Control & Scope.....	46
Limitations	46
Retirement Equity Act of 1984.....	46
Enforceability Requirements.....	47
Post-Nuptial Agreements.....	48