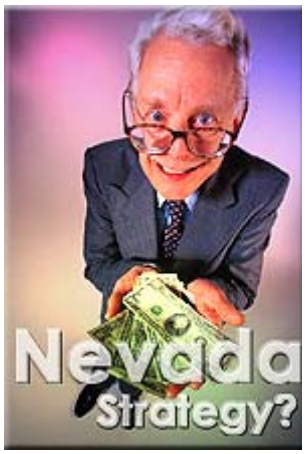
Can a Personal Nevada Corporation

Protect Your Credit & Assets?



Dear Nancy,

I've heard creating a Nevada corporation for our personal assets may be the best way to protect against future personal credit problems by becoming a corporation rather than an individual. Friends have used this tactic to minimize damage in divorce and have told me this is also an effective way to write off personal expenses like house payments, utilities and other necessities as corporate expenses. Is this true?

Nevada Gambler, Male (47) Atlanta

Dear Gambler,

My, my…you certainly are living up to your moniker, Gambler! Put the dice back in your pocket a minute, and let's think this thing through. Your friends may have been a bit hasty in suggesting a Nevada Corporation to write off your house payment and utility bills.

First, an individual (or family, for that matter) is usually not a business, and the type of corporation you're referring to assumes some sort of business purpose. A corporation is a legal entity, and one of it's most important features is limited liability, but there's a whole lot more to it.

Next, I have to wonder what sort of "future personal credit problems" you're anticipating. Should you incorporate in order to avoid paying off your debts, you may be committing something called "fraud". Going to jail won't show up as a particularly honorable mark on your resume.

What you're looking for, Gambler, is something financial planners, insurers and lawyers work with all the time, and it's called "Asset Protection". It's quite possible that a Nevada Corporation is the answer to your specific situation, but I doubt it. The best way to find out is to contact an estate planning attorney and discuss your needs. The National Association of Estate Planning Councils can suggest someone in your area if you don't know one. Check out www.naepc.org and click on the "Look for an Accredited Estate Planner".

If you really do have a business, then I still recommend talking with an estate-planning attorney and a tax accountant, if you haven't already done so, to determine the best entity for your particular business.

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The way corporations "limit liability" is not by hiding assets, but by making the business entity an unattractive target for a law suit. A common example might be a physician who has incorporated his medical practice. If a patient sues, and wins, they may be able to attach assets of the physician's corporation, but personal assets (home, investments, vehicles, real estate, etc.) would be protected.
Limited liability refers to limiting the availability of assets to a creditor. In the above scenario, the physician's corporation may be liable, but the home, retirement plans, investments, etc., may pass outside the lawsuit. That's what makes malpractice insurance important to service corporations, such as doctors, lawyers, accountants and financial planners.

If incorporation is for the purpose of hiding assets or avoiding tax, it's simply a dumb and expensive idea. Both federal and state income tax will be due on personal assets. You may be able to deduct utilities and rent payments on business property, but only if you actually own a business that's paying utility bills and rent. Personal assets may be protected with insurance or other means, but fraudently calling them something they're not, is not one of the ways to protect them.

Whether you're an employee of a company or run your own business, if you own your home, have substantial savings and/or brokerage accounts, real estate and other assets, I strongly urge you to talk with an estate planning attorney to see where "asset protection" is needed. It might come in the form of insurance, title changes, beneficiary changes, even the creation of a family limited partnership, or specially designed trust.

I'm betting you'll come out a big winner by putting your money on professional help instead of gambling it away on a hot tip from friends. Develop a relationship with an estate planning attorney and/or financial planner you can trust, who will help you determine your specific tax and lifestyle needs and create an appropriate asset protection plan for you.

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