

Team Tisser Foundation



Team Tisser Foundation (TTF) is a non-profit corporation founded by Doron M. Tisser and his wife Laurie. TTF raises money for various charitable purposes and does not focus on any one charity or charitable purpose. The goal is to raise as much money as possible to "Help Make A Difference" by "Improving Life for Others." TTF has made donations to Memorial Sloan-Kettering Cancer Center, Leukemia & Lymphoma Society, Challenged Athletes Foundation, as well as charities helping people affected by natural disasters such as Hurricane Katrina and the Tsunamis. Since 2000, TTF has donated almost \$175,000 to over 25 different charities. Friends and clients generally donate money to TTF to support Doron's participation in triathlons and marathons. If you would like more information about TTF, please contact Doron at doron@tisserlaw.com, or visit www.teamtisser.org

Quick Links

www.tisserlaw.com
www.teamtisser.org

About

Doron M. Tisser

Doron M. Tisser has specialized in estate and gift planning, tax planning, trust and probate administration, charitable giving, buy-sell agreements and related areas for over 27 years. Mr. Tisser is one of less than 100 attorneys in California who has been designated as both a Certified Specialist in Probate, Estate Planning and Trust Law, and as a Certified Specialist in Taxation Law by the State Bar of California Board of Legal Specialization. He was chosen by his peers as a Super Lawyer for 2009, 2010, and 2011 for Southern California, and enjoys an "a.v." rating by Martindale-Hubbell Law Directory, which is the highest possible rating and is based on ethical considerations and legal skills. Mr. Tisser has published over 65 articles and chapters in books on various estate and tax planning subjects and is a frequent speaker and lecturer at estate and tax planning seminars. Mr. Tisser competes in triathlons, including Ironman races, and raises money for charities through Team Tisser Foundation, a non-profit corporation he co-founded with his wife Laurie.



What's Happening

Each month, we place a special column on the left-side of the Tisser Law Group website, www.tisserlaw.com, which has interesting facts or stories. We invite you to view our web-site each month to see the latest addition. This month, we describe some of the craziest parking tickets ever received.

Doron M. Tisser has been nominated to serve on the Southwestern Law School Alumni Board of Directors.

Doron M. Tisser competed in the Pasadena Half Marathon on Sunday, May 15, 2011 as part of his fund-raising efforts for Team Tisser Foundation. It rained throughout the race, but he completed the race in an excellent time, and was successful in raising money for TTF. For more information on Team Tisser, see the column on the left side of this Newsletter.

If you would like Doron M. Tisser to speak to your group or organization about the new estate tax laws, trust administration or other estate planning subjects, please contact Laura Stein at laura@tisserlaw.com or call Laura at (818)226-9125.

Team Tisser Foundation, our non-profit corporation, has a valuable offer for you. Team Tisser has made arrangements with Cycle World, in Northridge, California, to give friends of Team Tisser a special deal on bicycles and related items. If you make a purchase from Cycle World, you will receive a store credit of 10% of your purchase price on non-sale items to be used on your next purchase at the store. In addition, Cycle World will donate 10% of your total purchase price of non-sale items to Team Tisser. This is a win-win for you and Team Tisser. Go to www.teamtisser.org to find out more about this offer. Please tell all your friends about this offer and start shopping at Cycle World. Incidentally, Doron M. Tisser purchased his new triathlon bike at Cycle World and loves it.

OWNERSHIP OF REAL ESTATE AND BUSINESSES

The issue of how to hold title to real estate and businesses (collectively, "Assets") has important implications not only for your personal liability, but also on the amount of estate taxes your family will pay when you die.

If you fail to own Assets properly, a lawsuit against the assets would be a lawsuit against you personally and could result in your losing other real estate and investments you own to the creditors.

Personal Liability

If you own Assets in your name, you could be personally liable for any lawsuits relating to the Assets. This includes holding title in your name personally, as well holding title in a general partnership. In a general partnership, each partner is personally liable for actions against the partnership.

It is true that you can buy liability insurance and umbrella insurance to protect yourself, but often you cannot buy enough insurance to feel comfortable that you would not lose your other assets in the event of a lawsuit.

Entities to Avoid Personal Liability

There are several types of entities that can be used to protect yourself and your net worth from creditors.

A limited liability company (LLC) is an entity that gives you the liability protection of a corporation (without being required to have annual minutes), but is generally taxed as a partnership. This type of entity gives you protection without the paperwork required by other types of entities. Before creating an LLC, you should check with your accountant to make sure that the LLC will not be subject to a large gross receipts tax in California; if it won't be, this may be the best entity to form to hold title to your Assets.

An additional benefit of an LLC is that if you personally get sued for something unrelated to the LLC, your creditor cannot take title to the LLC or its assets; instead the creditor would be limited to a charging order which only gives the creditor the distributions that are made to you from the LLC. So if there are no distributions made, the creditor gets nothing.

A limited partnership (LPP) is an entity that has a general partner (GP) and limited partners. The GP is personally liable for everything that happens in the LPP, so to protect the GP we often form an LLC as the GP with the individual who would have been the GP as the member of the LLC. This often requires an extra tax return for the LLC as the GP, and increases the amount of taxes paid to California because both the LPP and the LLC have to pay income taxes.

A corporation is an entity that has shareholders, directors and a board of directors. Historically, this was the entity used to own most businesses until the creation of LLCs in California. Corporations have more formalities that must be followed than do an LLC or an LPP, and that reason alone is why many clients opt to use an LLC.

Separate Entities for Separate Assets

When you have an Asset in an entity, such as an LLC, if there is a lawsuit relating to the Asset, generally only the LLC will be sued. If the LLC loses the lawsuit, you should not be personally liable for any damages. This would also apply to a corporation and a LPP.

In the event of a lawsuit against the LLC, all the assets in the LLC could be liable to the creditors. This means that if you own two apartment buildings in the same LLC and there is a lawsuit against the LLC, potentially both buildings could be lost in the lawsuit.

Often, clients will set up separate LLCs to own separate properties so that if there is a lawsuit against one of the LLCs, it will not affect the property owned in the other LLC. While this does require additional tax returns and documentation, it is often worth the additional cost. Think of the extra money spent on the additional LLC as the premium on an insurance policy to protect the Assets.

Liability for Debts of Entities

There may be situations in which you may be liable for a debt of an entity, notwithstanding that the entity should have protected you.

One such situation is if you personally guarantee any liability or loans of the entity. You would then be personally liable as to those debts. For example, if you personally guarantee a bank loan made to the LLC and the LLC cannot pay, you would be liable to pay the bank loan.

Another example of when you might be personally liable is if you personally take action on behalf of the LLC, not as a Member or manager. To avoid this happening, if you are a member of an LLC and you sign papers on behalf of the LLC, you should always sign the documents by placing the word "Member" after your signature to indicate you are taking this action on behalf of the LLC, not personally.

Estate Taxes

When you die, the value of the assets you own generally are subject to estate taxes. The value is determined by getting appraisals on the assets you own at death.

The value is what a third party would pay for the asset. So if you own a piece of property equally with your brother, and the property is worth \$1 Million, the value of your one-half interest would initially be \$500,000. But for tax purposes we can "discount" the value to an amount we believe a third party would pay for your one-half. A third party might only pay \$425,000 for your one-half because that party does not control the property and cannot borrow against the property without the consent of the other owner, your brother. This would amount to a 15% discount, i.e., \$500,000 less 15% (\$75,000).

By placing the real estate into an LLC owned equally by you and your brother, the LLC can be structured so that the discount that a third party would take for your one-half interest in the LLC would be greater than 15%. If the additional discount were, for example, 20%, this would amount to a reduction in value of another \$100,000 (i.e., 20% of the \$500,000 initial value). If your estate were in a 35% estate tax bracket, this would amount to a \$35,000 estate tax savings to your family. As the value of the property increases in value and as your estate tax bracket increases, the amount of the estate tax savings for your family grows.

The value of the property is determined by an appraiser and the written appraisal must be given to the IRS.

Summary

It is important to look at all your Assets and consider which ones should be held in an entity to protect you from potential lawsuits, as well as to minimize estate taxes for your family.

We generally recommend that all investment real estate be held in an entity, both from an asset protection point of view and from an estate tax planning perspective.