

# WealthKEEPERS®

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## Elements of Personal Asset Protection

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Last week we reviewed the elements of business asset protection. In future weeks we will delve deeper into business asset protection, but for today, I would like to cover the elements of personal asset protection.

As I have said previously, personal asset protection is much more than protecting assets from a successful creditor in a lawsuit. You need to know the assets that you personally own that could be at risk. In order to know what assets you own that are at risk, you must know your Texas state exemptions.

Our Texas constitution and statutes under the Texas Property Code and Insurance Code promulgate our state exemptions. Texas has some of the very best exemptions available to Americans. Texas exempts two types of real property: (a) one or more cemetery plots; and (b) a homestead. Either families or single adults may claim homesteads. The homestead may be either rural or urban and it includes any improvements on the land. So, you can build the Taj Mahal on your homestead and feel secure in living out your days in peace, so long as you pay your mortgage, taxes (income and property) and those you hire to improve or add on to your property.

Texas also has personal property exemptions. These include two different types of exemptions for personal property: (1) an "aggregate" exemption for certain kinds of personal property, limited by the combined value of the property; and (2) unlimited exemptions for other kinds of personal property. Families and single adults may exempt certain kinds of personal property from the claims of creditors as long as the combined fair market value of the property does not exceed: (1) \$60,000 for a family; or (2) \$30,000 for a single adult.

But the best exemptions other than the homestead are those that don't have any limitations on value. These include IRAs, annuities, current wages and life insurance.

Once we know what you have that is not protected by our state exemptions, we can then suggest a plan to protect what is at risk.

Other elements of personal asset protection can involve planning for an elderly couple's possible need for nursing home care to protect as much for the spouse that would continue to live at home while allowing for the government to assist in paying for the cost of a nursing home for the spouse that could no longer live at home.

Personal asset protection involves planning first. Planning includes discussing all of the issues presented above and determining which, if any, of them cause you to worry or be anxious. Once we have determined what risks you are most concerned with, then we can develop a plan that will, if implemented properly, give you peace of mind and a freedom to do things that you were reluctant to do before because of your risks. Once a plan is developed it needs to be implemented with legal structures such as business organizations, trusts and contracts. Once the legal structures are created they need to be properly funded and then accounted for thereafter. This involves coordination with attorneys and accountants. The last ingredient is to monitor the proper operation and tax reporting of the legal structures implemented.

This article has been a brief overview of some of the most common elements of personal asset protection. We offer a 1-hour initial conference at no charge to discuss your asset protection issues. At the end of that conference we can usually quote you a fixed fee to prepare your asset protection plan and can offer you common fees of attorneys experienced in the preparation of the legal structures needed to implement your plan.

James C. Mulder is an attorney with over thirty years of experience in Wealth Transfer, Tax and Asset Protection Planning. He is Board Certified in Estate Planning and Probate Law and in Tax Law by the Texas Board of Legal Specialization. He is one of only fifteen attorneys in the Houston area that are Board certified in both Estate Planning and Probate Law and Tax Law. Mr. Mulder concentrates his practice in Wealth transfer, tax, and asset protection planning. The implementation of such planning includes the preparation of very comprehensive wills, trusts, business organizations and family partnerships. Mr. Mulder has prepared over 1,000 asset protection plans.