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ASK THE **ADVISERS**

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Exempt Assets

Affluent people who have amassed considerable wealth are often viewed as financial targets in our litigious society. That is why it makes sense for most people to create a minimum level of wealth that no one can ever take away even if they lose a lawsuit.

Fortunately, Florida is a particularly favorable state for its residents who would prefer not to lose all their wealth to judgment creditors. Florida has passed several laws that with proper planning allow its current and future residents to essentially create unlimited amounts of wealth that no one can ever take away.

Primary residences are exempt from claims of creditors for Florida residents. Retirement accounts are also exempt. However, there are federal limitations on how much one can contribute to retirement accounts. Fortunately, other assets are exempt from claims from creditors with no contribution limits.

According to Florida Statute 222.14, “the cash surrender values of life insurance policies issued upon the lives of citizens or residents of the state and the proceeds of annuity contracts issued to citizens or residents of the state, upon whatever form, shall not in any case be liable to attachment, garnishment or legal process in favor of any creditor of the person whose life is so insured or of any creditor of the person who is the beneficiary of such annuity contract.”

These assets are also exempt from bankruptcy proceedings. That means a debtor can discharge all their debts but keep all their exempt assets. By transferring their investments into a no-load variable annuity, Florida residents can essentially protect an unlimited amount of wealth from future creditors without tying up their assets. Aside from asset protection, annuities defer annual taxation on interest, dividends, and capital gains until such time as funds are withdrawn from the annuity.

Once people realize that they have creditors trying to take their money their desire to protect their assets increases exponentially. Unfortunately, once creditors emerge, it may be too late to protect assets from them. Asset protection planning needs to be done in advance.