Asset Protection

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Related Services

Estate Planning
Advance Directives
Asset Protection
Estate Litigation
Fiduciary Services
Health Care Proxy
Last Will & Testament
Power of Attorney
Special Needs Trust
Trust Administration
Trusts

Overview

Asset protection planning has a critical timing requirement that most people discover too late: transfers made after a creditor claim arises, or within the MassHealth look-back period, can be voided entirely. The time to protect assets is before you need to.

Effective asset protection is not about hiding wealth. It is about structuring ownership and control through legally recognized tools so that what you have built remains intact when creditors, lawsuits, or long-term care costs threaten to erode it. Massachusetts law provides several mechanisms for protecting assets, but each comes with specific rules about timing, irrevocability, and permissible structure. We tell our clients that the distinction between lawful planning and a fraudulent transfer often comes down to when the plan was put in place, not what it contains.

Cohen Cleary develops asset protection strategies for business owners, professionals with liability exposure, and individuals seeking to preserve wealth for their families across southeastern Massachusetts and throughout the region.

How We Help Protect Assets from Lawsuits and Long-Term Care Costs

Our asset protection work begins with a detailed assessment of your current exposure. We evaluate the nature of your assets, the sources of potential liability, and the legal tools available under Massachusetts and Rhode Island law. From there, we build a strategy that may incorporate one or several of the following:

- Irrevocable trust asset protection structures designed to remove assets from your taxable and reachable estate while preserving defined access for beneficiaries
- Business entity formation, including LLCs and corporations, to separate personal assets from business liabilities
- Medicaid asset protection planning that accounts for the five-year MassHealth look-back period and positions families to protect assets from nursing home costs without unnecessary spend-down
- Massachusetts homestead declarations, which provide up to $500,000 in protection for your primary residence against most unsecured creditors
- Integrated planning that coordinates creditor protection with your broader estate plan, including powers of attorney, trusts, and beneficiary designations

Each strategy is built around your specific risk profile. A physician with malpractice exposure requires a different structure than a real estate investor managing multiple properties, and both differ from a retiree concerned primarily with long-term care costs.

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Why Choose Cohen Cleary

At Cohen Cleary, our practice teams combine deep subject-matter experience with disciplined execution and responsive client service. We do not take a one-size-fits-all approach. Every matter is handled with careful preparation, clear communication, and a strategy tailored to the client's goals and the realities of the forum.

Clients choose Cohen Cleary because we deliver:

Practice-Focused Legal Experience

Our attorneys work in defined practice areas, allowing us to develop practical insight into the legal, procedural, and regulatory nuances that matter most in each case. This focus allows us to anticipate issues, avoid unnecessary delays, and position matters for efficient resolution.

Clear Guidance and Proactive Communication

We prioritize clarity at every stage. Clients receive straightforward explanations of their options, timely updates on developments, and practical advice grounded in real-world outcomes.

Strategic Advocacy with Trial Readiness

Whether a matter calls for negotiation, mediation, or litigation, our attorneys prepare every case with discipline and foresight. We pursue efficient resolution when possible and are fully prepared to advocate aggressively when necessary to protect our clients' interests.

Regional Knowledge and Local Presence

With offices throughout Massachusetts and experience across New England courts and agencies, we bring local insight and regional reach to every matter.

Client-Centered Service

We treat every matter with urgency and respect. Our clients rely on us for responsive service, sound judgment, and steady counsel through complex legal challenges.

In our asset protection work, this approach helps clients navigate wealth preservation strategies with clarity, efficiency, and confidence.

Our Approach to Asset Protection Planning

Asset protection is not a single transaction. It is a framework that must be built before a creditor claim arises and maintained as your financial circumstances evolve. We approach every engagement by identifying the threats specific to your situation, evaluating the cost and complexity of available tools, and designing a structure that balances protection with practical access to your assets. Where Medicaid planning is involved, we coordinate closely with our elder law team to ensure that asset transfers comply with MassHealth eligibility requirements and do not create disqualifying penalties.

Asset Protection Attorneys Serving Massachusetts and Rhode Island

Cohen Cleary advises clients on asset protection planning throughout Massachusetts and Rhode Island, with offices in Taunton and Plymouth serving Bristol County, Plymouth County, and

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Norfolk County. Our attorneys are familiar with Massachusetts Probate and Family Court procedures governing trust matters, the fraudulent transfer framework under M.G.L. c. 109A, MassHealth eligibility rules, and the specific requirements for homestead declarations under Massachusetts General Laws Chapter 188. We also have the capacity to serve clients across New England whose planning needs extend beyond our core jurisdictions.

Take the Next Step to Protecting Your Assets

Protecting your assets requires planning that begins well before a threat arises. Whether you are a business owner evaluating liability exposure or an individual planning for long-term care, early action is the single most important factor in effective asset protection. Contact Cohen Cleary to schedule a consultation with our asset protection team.

Frequently Asked Questions About Asset Protection

Can I protect my assets after a lawsuit has already been filed?

Transfers made after a creditor claim arises are vulnerable to being set aside as fraudulent conveyances under Massachusetts law. Courts examine both the timing of the transfer and whether you retained adequate assets to satisfy known obligations. Asset protection planning is most effective, and most defensible, when implemented well before any claim or threat materializes. A creditor protection lawyer can evaluate your current exposure and help determine which strategies, if any, remain available once a claim exists.

What is the MassHealth look-back period, and how does it affect asset protection?

MassHealth examines all asset transfers made within the five years preceding an application for long-term care benefits. Transfers made during this window for less than fair market value can result in a penalty period during which the applicant is ineligible for coverage. Effective Medicaid asset protection planning accounts for this timeline and structures transfers accordingly.

Is Medicaid asset protection planning considered fraud?

No. Medicaid planning using legally recognized tools, such as irrevocable trusts and exempt transfers, is lawful and widely practiced. The distinction lies between legitimate advance planning and improper transfers designed to conceal assets from a pending application. We structure every plan to comply fully with MassHealth regulations and federal Medicaid law.

Does an asset protection trust provide complete protection from creditors?

An asset protection trust can be a powerful planning tool, but it is not a blanket shield. The level of protection depends on the trust's terms, the timing of the transfer, and whether the grantor retained any beneficial interest or control. A poorly drafted irrevocable trust, or one established too close to a creditor event, may offer little protection. We draft these instruments with specific attention to the factors that Massachusetts courts evaluate when creditors challenge trust assets.

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