A PRACTICAL GUIDE FOR START-UP BUSINESS OWNERS

Asset Protection

Shielding Your Business & Personal Wealth

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Getting Started

How to use this guide

About This Guide

- This eBook covers the basic asset-protection concepts every start-up owner should know and implement.
- It is a resource you can revisit in the months and years ahead as your business grows.
- Read it carefully BEFORE meeting with a lawyer, CPA, or insurance broker to get the most from those conversations.
- This is a starting point, not everything you need to know. Use it as a foundation for deeper professional consultations.

Preparing for Your Consultation

List your questions before the call.
Identify the key issues to resolve.
You'll gain strategic insights and learn the right questions to ask going forward.

Important Reminder

Talk to a tax advisor and an insurance broker separately.
Lawyers cannot provide tax advice or sell insurance products.

CHAPTER 02

Launching Your Business

An 8-step checklist for every new business

Your Basic Asset Protection Checklist

- Form and use a limited liability entity (we prefer the LLC). This is one part of asset protection planning.
- Open a bank account in the name of your LLC. Keep personal and business finances separate.
- Hire a tax advisor to determine tax status (S-corp, disregarded single-member, partnership), state tax responsibilities, bookkeeping best practices, and estimated tax payments.
- Hire an insurance broker at an independent agency that represents multiple insurers with product options.
- Determine if your products or services require any state licensing. Check local registration rules, as Indiana has 92 counties and hundreds of cities and towns with varying requirements.
- Join a trade group or find mentors in your industry to stay current on best practices.
- Get and use good contracts. Explore available legal forms that might fit your business needs.
- If you have a business partner, add a written partnership agreement (often called a Buy-Sell Agreement) to your operating agreement.

CHAPTER 03

Understanding Asset Protection

What it is, what it isn't, and why it matters

What is Asset Protection?

The process of arranging your assets and conducting your affairs in ways
to protect personal and business assets against the risk of loss to future creditors.

Two Forms of Asset Protection

Personal Protection

Protecting your PERSONAL
assets from business risks

Business Protection

Protecting your BUSINESS
& its assets from business risks

Key Facts About Asset Protection

- Asset protection relies on the law. It is not fraud or hiding assets.
- Fraud and fraudulent conveyances cannot be protected against -- they are the limit of any strategy.
- Asset protection is time-tested and proven, not a new or untested concept.
- It is a vaccine, not a cure. You cannot reverse existing liabilities -- you must plan ahead.
- Asset protection should be tax neutral. It is not primarily about saving taxes.
- Asset protection requires discipline and vigilance to maintain entities and follow the rules.
- Acts of business principals can give rise to personal liability (e.g., causing an accident while driving for work).
- Acts of employees are acts of the LLC/corporation. Acts of independent contractors are not.

The 4 Key Components of Asset Protection

The four ongoing jobs of asset protection

1

Assessing, Monitoring & Avoiding Risks

Identify the risks your business faces, monitor them, and work to minimize them. Talk to your lawyer, tax advisor, and insurance agent regularly.

2

Operating a Limited Liability Entity

Select and operate an LLC (preferred) to create a legal shield between business risks and your personal assets.

3

Transferring Risks to Others

Shift risks through insurance (to insurance companies) and through contracts (allocating responsibilities to other parties).

4

Building Good Business Practices

Get educated, conduct risk assessments, plan your business, create systems, and know the laws affecting your industry.

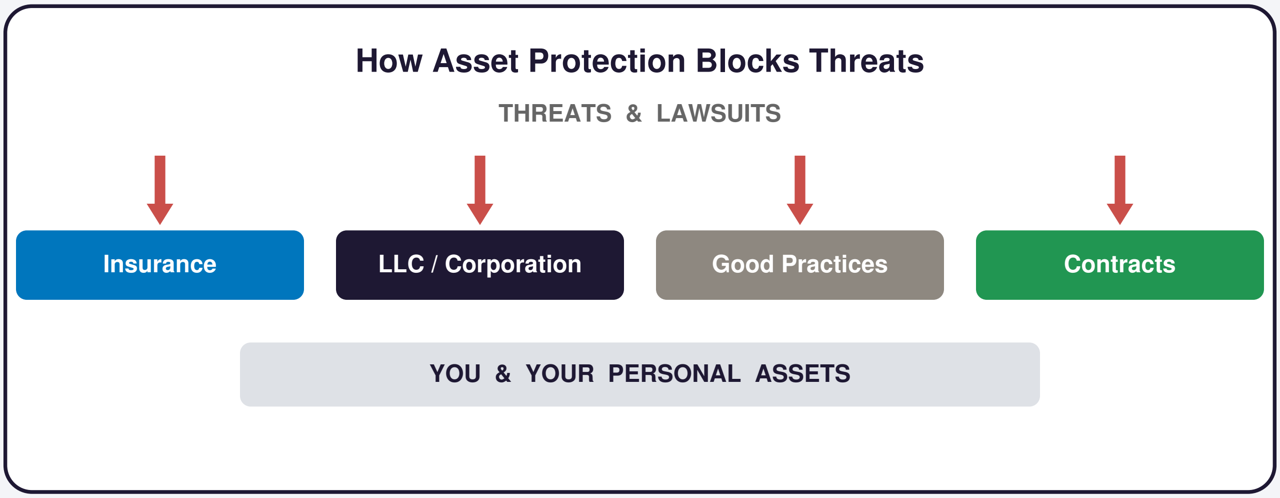
These 4 jobs are NEVER completed!

Asset protection is an ongoing process. Review and update regularly as your business evolves and the law changes.

CHAPTER 04

Assessing Your Risks

Identifying and managing business risks



CHAPTER 05

Protecting the Corporate Veil

Keeping your liability shield intact

Your limited liability entity provides a "shield" between your company's risks and your personal assets. Indiana courts look at eight factors when deciding if that shield can be "pierced":

8 Factors Courts Examine

1. Undercapitalization of the entity
2. Absence of corporate records
3. Acts of fraud by corporate owners or officers
4. Use of the company to promote fraud, injustice, or illegal activities
5. Payment by the company of individual obligations
6. Commingling of assets and affairs
7. Failure to observe required corporate formalities
8. Other owner acts or conduct ignoring, controlling, or manipulating the corporate form

! **Don't Forget Your D/B/A! (doing business as)**

Register an assumed business name so your LLC can operate under a shorter name. Without one, you risk personal liability for your company's actions.

FOR EXAMPLE: ACME Landscaping Crew LLC can operate d/b/a "ACME Landscaping" or "ACME Landscaping Crew" and use shorter names on marketing materials.

CHAPTER 06

Signing Contracts the Right Way

Signing in your representative capacity

YOU personally should not enter business contracts. YOUR BUSINESS ENTITY should be the named party. Since your entity cannot sign, you sign in your representative capacity on its behalf.

Example #1

____

Ron Buck, As President for
Good Deal Real Estate, Inc.

Example #2

ABC Properties, LLC
By: ______________________
Joe Smith, Manager

3 Required Elements in Every Signature Block

1. Your Name
2. Entity Name
3. Title / Rep. Capacity

CHAPTER 07

Transferring Risks

Using insurance and contracts to shift exposure

Two Ways to Transfer Risk

Insurance

Transfers risks from you & your business to the insurance company.

Contracts

Allocate risks & responsibilities between parties in writing.

How to Work with an Insurance Agent

- Send the agent a business plan or executive summary -- details matter.
- Ask the agent to identify your insurable risks (e.g., business invitees at your home office, employees who drive).
- Have the agent develop an insurance plan with options for coverage.
- Schedule a consultation to review costs and benefits of plan options.
- Repeat this process annually and whenever you change business operations.

Get Everything in Writing!

Every business relationship should be memorialized in a written contract: Business partners, Employees, Customers & clients, Vendors, Subcontractors, Visitors to your website or app.

Indiana Home Improvement Contractors

Contracts for home repair or improvement must comply with the Indiana Home Improvement Contract Act (HICA). Violations can trigger consumer claims.

CHAPTER 08

Building Good Business Practices

Systems, education, and ongoing vigilance

Three Core Concepts

Ongoing Education

So important that it never ends. Stay current on the laws affecting your industry, join trade associations, and read widely.

Risk Assessment

So underrated that few discuss it. Regularly evaluate your business risks and work to minimize them.

Business Planning & Review

So obvious that few actually do it. Work ON your business, not just IN it.

Build Systems!

Good asset protection requires systematic approaches. For example, if you own a restaurant, develop a system where employees inspect the parking lot, restrooms, and all floors once every hour. Fix problems immediately, train your staff, and record everything in a written log.

If you are a landlord or property manager, know landlord-tenant law, have written leasing criteria to avoid discrimination claims, regularly inspect properties, and maintain systems to record all communications.

Recommended Reading on Building Systems

The E-Myth (Revisited) by Michael Gerber

The Checklist Manifesto by Atul Gawande

CHAPTER 09

Moving Forward

Next steps and ongoing resources

What to Do Next

- ✓ Explore available legal forms and templates for your business contracts. Most businesses need some kind of contract.
- ✓ If you need state-specific forms (e.g., Indiana Home Improvement Act contracts), consult with your attorney for compliant documents.
- ✓ Look into articles and educational resources at your law firm's website or through your legal plan provider.
- ✓ Discard junk mail sent to your physical address after forming your entity. Official communications come via email and online channels.
- ✓ Review any licensing recommendations carefully. Only apply for licenses that truly apply to your business operations.

The Value of Ongoing Legal Guidance

- You have to work ON your business, as well as IN it.
- The law changes constantly; staying informed is essential.
- A legal plan membership can be far less than typical attorney hourly rates ($200-$510/hour).
- Contract review services (up to 10 pages) may be included in your plan benefits.

Remember: Asset Protection is Never "Done"

These four ongoing responsibilities never end:

1. Assessing, Monitoring & Avoiding Risks
2. Operating a Limited Liability Entity
3. Transferring Risks to Others
4. Building Good Business Practices

CHAPTER 10

The Series LLC
for Multiple Location Business

Separating liability across multiple properties

The Indiana Series LLC, available since January 1, 2017, allows owners of multi-location business and real estate investors to consolidate management while separating liability on a business-by-business or property-by-property basis. This is especially valuable for buy-and-hold investors with multiple rental properties.

The Evolution of LLC Structures

Single LLC

LIMITED PROTECTION

All properties in one LLC. A lawsuit against one property exposes all assets in the LLC.

Multiple LLCs ("Old" Model)

BETTER, BUT COSTLY

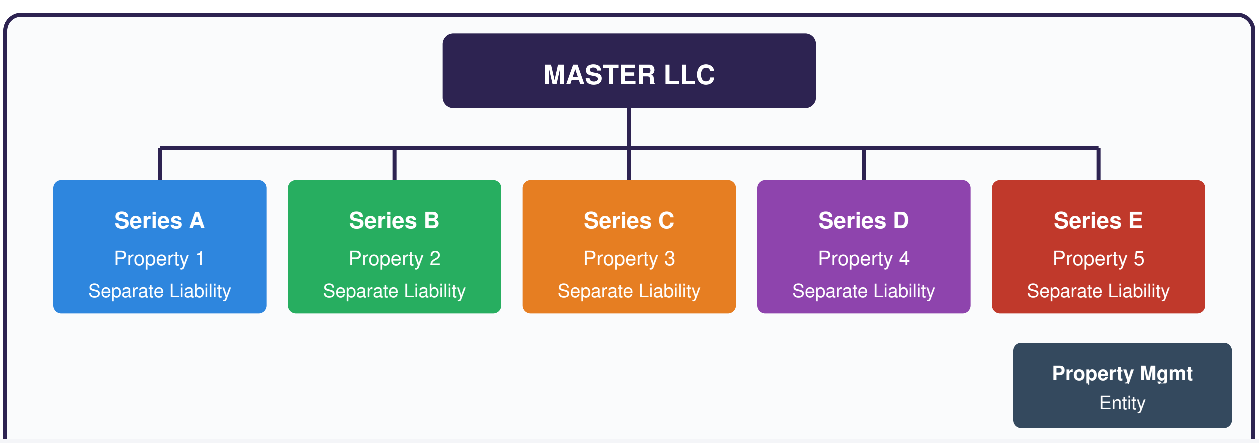
Separate LLCs need separate bank accounts, branding, and annual maintenance for each.

Series LLC (New Model)

BEST PROTECTION + EFFICIENCY

One Master LLC with separate Series for each property. Consolidated management, isolated liability.

Series LLC Structure



3 Key Requirements

What it takes to keep the Series LLC shield intact

1. **Proper Formation**
   Master LLC and each series must be filed with the Indiana Secretary of State.

2. **Careful Documentation**
   Organizational documents must contain specific required language.

3. **Separate Accounting**
   Detailed records must track assets of each series separately.

! **Record-Keeping is Critical!**

If records are not maintained separately for each series, the liability protection of the Series LLC structure may be lost.

CHAPTER 11

Buy-Sell Agreements

Planning for the end of business partnerships

> *"Every business or professional relationship you have today or will ever have will eventually end."*

Businesses fail. Partners move on. A partner might become ill or pass away. It only makes sense to plan for the end of your business relationship -- that's what a buy-sell agreement accomplishes.

The Big D's -- Triggering Events

- **Death** What happens if an owner dies?
- **Disability** What happens if an active owner can no longer contribute?
- **Disinterest** What happens if an owner wants out of the business?
- **Dishonesty** What happens if an owner cheats the company?
- **Divorce** Can an owner's spouse obtain ownership in a divorce?

What Happens After a Triggering Event?

Once an event triggers, one partner has an option or obligation to buy another partner's ownership. If Bill becomes permanently disabled, his partner Carol would have the right or obligation to buy Bill's interests.

*

Best Practice: Negotiate Early!

Negotiate buy-sell terms early, before any owner knows whether they will be the buyer or the seller. This leads to fairer terms for everyone.

Other Important Provisions

Phantom Income Taxation

In tax flow-through entities (LLCs, S-corps), owners pay tax on their share of profits even if not distributed. A good buy-sell protects partners from this.

Dispute Resolution

Lawsuits between partners are among the nastiest and most expensive. Buy-sells provide predictable results and may require mediation or arbitration.

CHAPTER 12

5 Reasons We Love LLCs

Why the LLC is our go-to entity choice

We form LLCs more often than any other entity because of their flexibility. While not always the best choice, LLCs can be adapted to accommodate most small business needs.

1

Lower Maintenance

Less work to maintain. No required annual meetings to elect directors or officers (unlike corporations). But you should still maintain entity formalities.

2

Flexible Governance

Can be structured like a sole proprietorship, corporation, general partnership, or limited partnership. Single-member, member-managed, manager-managed, or corporate-style with a board of managers.

3

Income Tax Flexibility

Can be taxed as a partnership, sole proprietorship (disregarded single-member), or S-corporation, depending on structure and elections.

4

Charging Order Protection

Unique protection not available to corporation owners. Creditors can seize distributions but cannot acquire the member's ownership interests. Like a garnishment, not a seizure.

5

Natural Home for Buy-Sell Agreements

Operating agreements naturally include transfer restrictions. Easy to expand with complete buy-sell provisions for orderly governance.

Important:
The LLC's flexibility is a double-edged sword. Only a knowledgeable Indiana business lawyer can ensure your LLC is properly organized.

THANK YOU FOR READING

Build it. Protect it. Pass it on.

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