

## When Trusts and LLCs Hold Assets: The Hidden Risks

For many highly successful individuals and families, placing the ownership of assets such as homes, boats and other property into trusts and limited liability corporations (LLCs) makes a lot of sense. Whether for tax, privacy or other reasons, trusts and LLCs can be useful tools.

“Insurance premium payments are one of the areas where clients often think it is harmless to pay the premium directly even if there is a trust or entity involved. If there is a lease agreement in place for use of the home or vehicle, direct payments may be proper. Otherwise, paying directly instead of having the entity-owner make the payments, could create a bad fact to help someone punch through the protections of the LLC”

- Lauren Wolven,  
Estate Planning Partner  
*Levenfeld Pearlstein, LLC*

One potentially costly and troublesome wrinkle that often emerges with the use of trusts and LLCs, however, is that the entities themselves wind up being inadequately insured, inappropriately insured or – usually inadvertently – not insured at all. This often occurs because the intersection of trusts, LLCs and insurance can be a no-man’s land where legal and wealth management professionals don’t receive the sophisticated insurance input they need.

If trusts and LLCs are not protected properly, their assets are put at risk; and that can present unexpected and unpleasant surprises for the beneficiaries of a trust and those with interests in an LLC. There also are risks for the trust or LLC concerning the method by which insurance premiums and claim payments are made. If, for example, insurance premiums are paid from an individual’s personal account for policies in the name of a legal entity, or if an individual or the wrong entity cashes a claim payment check, the protections that a trust or LLC was designed to create may be jeopardized.

Reviewing some of the basics concerning trusts, LLCs and insurance, therefore, can be valuable for wealth managers. Wolven observes, “It is surprising how often clients are underinsured or improperly insured. Advisors that take a holistic approach and ask about insurance coverage can provide clients with valuable advice that is simple to implement and so important in the event of a casualty loss.”

Generally, insurance on property that has been put in trust or has been transferred to an LLC can be handled in one of two ways: The LLC or trust can either be the “named insured” on the policy or it can be the “additional insured or additional interest” on the policy of the person(s) who placed the property in trust or transferred ownership to an LLC.

There are advantages and disadvantages to each option. If the trust or LLC is the named insured on the policy, the advantage is that there is more complete separation between the trust/LLC and the beneficial owners, who for sake of clarity in this explanation we’ll call the Smiths. If the trust or LLC pays the insurance premium, this is consistent with its ownership of the property and maintains the separation of the asset in the name of the trust/LLC and the protections that go with that separation.

In addition, if the trust or LLC is the named insured on the policy, an insurance advisor should be aware that the Smiths may have to purchase renters insurance to provide coverage for their personal belongings and personal liability insurance if they do not have this coverage extended from another location or policy.

When a trust or LLC is named an “additional insured or additional interest” on the policy covering the property, the Smiths remain as the name insureds and there should not be a need for a separate renter’s policy or personal liability policy for the property. The downside is that there is not true separation between the Smiths and the legal entity that actually owns the property, which may create risks the Smiths sought to avoid when placing the ownership of the property in the trust or LLC.

Trusts and LLCs owning property must be protected for other risks beyond the usual property and liability risks associated with home ownership. Often times, an LLC will employ domestic staff to maintain the residence premises. LLCs employing domestic staff will need proper coverage for employment liability exposures. EPLI insurance is designed to protect employers, whether they are entities or individuals, against lawsuits filed by employees.

A special note, if a home owned by an LLC or trust is used as a commercial enterprise (income generation or business enterprise), the LLC or trust will need commercial coverage. Other uses of properties for the purpose of ranching, farming or wine-growing, will require additional specialized coverage on that location.

Mainstream insurance companies typically don’t have the knowledge or expertise to deal with the challenges of protecting property owned by trusts and LLCs. Insurers with extensive experience in insuring successful individuals and families, such as Chubb, can provide family offices and other wealth managers with the insight and sophisticated coverage options that will accomplish the objectives the client wishes.

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