

IS YOUR LLC OR TRUST PROPERLY INSURED?

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You Can Run but You Can't Hide Behind an LLC or Trust

It is a common misperception that assets held in LLCs and trusts are protected from liability. However, even if property is owned in an LLC or trust, if there is injury on the property itself, the LLC or trust could be liable. All assets owned by the LLC or trust could be subject to potential liability for the injury.

Assets held in an LLC or trust should be fully insured against risks. In addition, the insurance protection should cover both the LLC and/or trust as well as the individual(s) occupying the property.

“The trust or LLC itself needs protection, just like an individual. If it is not protected, its assets are at complete risk.”

TOM ENDERSBE, CEO
ENDERSBE, HERRON AND ASSOCIATES

35%

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It's no secret that the use of Limited Liability Companies (LLCs) and trusts is on the rise among the wealthiest Americans. In 2011, celebrity Jennifer Aniston used a trust in the name of her pet, "Norman," to purchase a \$4.95 million apartment in New York City¹. This wasn't just an eccentric quirk or a publicity stunt. In fact, LLCs and trusts are increasingly popular among individuals of all income levels who wish to keep their personal real estate and business transactions discreet.

A trust is a legal agreement that grants an individual or institution the right to manage property or assets for the benefit of someone else. An LLC is a business-like entity with corporate and partnership qualities that limit the personal liability of its members. Both are legal instruments used to limit probate for ownership of properties in multiple states.

Tom Endersbe, CEO of Endersbe, Herron and Associates, is a financial planner who recognizes that even affluent clients — those with a few million dollars in assets — often own assets in multiple states. "Issues of the High Net Worth (HNW) have come down to the masses," Endersbe says. "They now face the same complexity as their HNW counterparts."

LLCs and Trusts Are On the Rise

According to tax return data from the IRS, the number of trusts and estates in the United States has increased 35% since 1983. This trend will likely continue to rise as the Baby Boomer generation ages and accumulates wealth. High net worth individuals and family offices use trusts to minimize taxes, avoid probate and ease the transfer of assets and income.

Other HNW and affluent individuals use LLCs to legally separate themselves from their assets to limit liability when purchasing homes, artwork and real estate. This not only shelters LLC members from liability of individual debt, but can also serve as a tax shelter, philanthropic endeavor, or both.

Many HNW families with luxury homes employ domestic staff and tend to operate more like a business. By incorporating their personal assets and liabilities under an LLC, they can separate themselves from their assets, yet be protected with personal insurance purchased in the name of the LLC.

LLCs and Trusts Need Protection

While LLCs and trusts are financial instruments designed to limit liability, the legal entity itself needs insurance protection. "The trust or LLC itself needs protection, just like an individual. If it is not protected, its assets are at complete risk," said Endersbe.

This does not mean LLC members and trust beneficiaries need complex insurance. There are a few relatively simple solutions, but they do require an insurer with expertise and flexibility.

HOW TO LIST AN LLC OR TRUST ON AN INSURANCE POLICY

An LLC or trust can be listed as a "named insured" or an "additional insured" depending on the liability concerns of its members.

"Most policyholders are unsure whether they should list their LLC or trust as an additional insured or a named insured on their policy," said Dan Friehs, senior vice president, Personal Insurance and Commercial Select Business at J.W. Terrill.

Their concern is that the additional insured can be held liable for actions or judgments against the named insured.

“Ownership of the property determines whether an LLC or trust should be listed as a named insured or an additional insured on a policy,” states Kathy Cold, an attorney with Holbrook, Akel, Cold, Stiefel & Ray, P.A., who is well-versed in matters of estates and trusts. “In this vein, if an LLC is the sole owner, it would typically be the named insured, but the policy should also be tailored to provide the LLC owners or members with sufficient property and liability coverage as well.”

Many standard market agents and insurers aren't comfortable with LLCs or trusts, and most won't allow policyholders to name their LLC or trust on their personal insurance policies.

“This is where it pays to work with an independent agent who has the expertise to determine the best means of protection,” Friehs adds.

When your insurance agent works in partnership with your trust attorney and financial planner, they can use each other's expertise to resolve complicated liability issues.

WHEN YOUR HOME IS LIKE A BUSINESS

High net worth individuals and their families often employ domestic staff to help run the household. With a larger staff, the homeowner may require commercial-like liability coverage that exceeds the limits of their homeowners and/or excess policy.

Much like commercial operations, LLCs can use Employment Practices Liability Insurance (EPLI) to protect themselves against lawsuits filed by employees. EPLI provides greater limits to cover expenses for employee rights violations, such as discrimination, harassment, and wrongful termination.

For example, a policyholder fires his housekeeper and subsequently incurs both a wrongful termination and a sexual harassment lawsuit.

With an Employment Practices Liability option, the LLC and its members are protected against employment-related discrimination, sexual harassment, and wrongful termination suits.

WHEN YOUR HOME IS A BUSINESS

Wealthy homeowners often have unique interests that turn their property into a revenue-generating business, such as a vacation rental, vineyard, or hobby farm. In addition to the need for EPLI, workers' compensation coverage is also necessary, just like any other business. The home business also needs protection for real estate and personal property.

In many cases, high-value homeowners choose to rent their vacation homes, which can earn as much as \$10,000 per week. However, vacation rentals of this caliber can exceed the business income limits on a personal insurance policy and require additional commercial-like coverage. Home businesses filed as an LLC should consider a specialty insurance solutions from a carrier with additional expertise in commercial insurance.

Similarly, many wineries in California's Napa Valley are actually family owned and operated on their personal residential premises. While some are “hobby farmers,” others are engaged in full-scale production and distribution, generating significant revenue.

In this case, a Farm & Ranch package offers several levels of protection that go above and beyond standard market homeowners or excess policies. A typical Farm & Ranch package offers a wide variety of coverages that address farming risks, personal and business property, and other commercial exposures.

No matter the size of the operation, family-owned operations set up as LLCs can find ample insurance options that protect against property damage, liability, injured employees, and other losses that could otherwise threaten the personal wealth of each member of the LLC.

Words to Know

Named Insured

Any person, firm or organization, or any of its members, specifically designated by name as an insured(s) in an insurance policy.

Additional Insured

A person or organization not automatically included as an insured under an insurance policy and must be named in order to receive coverage.

Did You Know?

Personal insurance policies often limit coverage to businesses that earn less than \$10,000 per year. Homeowners with one or more high-value vacation rentals can easily exceed this limit and should consider commercial coverage.

“Most policyholders are unsure whether they should list their LLC or trust as an ‘additional insured’ or a ‘named insured’ on their policy.”

DAN FRIEHS
J.W. TERRILL

HOW CAN I FIND THE RIGHT INSURANCE?

Owners of LLCs or trusts that include personal assets should work with a trusted financial advisor and an independent agent who specializes in insurance for HNW individuals and their families. “Financial and insurance planning need to be part of the overall strategy,” Endersbe advises.

Financial planners and insurance agents who collaborate on an account have more knowledge about how each discipline complements the other and can create a better plan for their client.

Working as a team, your advisors can best determine the limits and terms and conditions that provide a level of security that meets your needs. It is also essential that you choose an insurance provider who understands the unique risks associated with wealth and can provide customized coverages that are prudent and prevent gaps in coverage.

ABOUT FIREMAN'S FUND

As a leading provider of personal insurance for wealthy individuals and their families, Fireman's Fund offers a variety of insurance solutions for LLCs and trusts. Our unmatched ability to write flexible coverages means we can customize a policy that protects your wealth.

For 150 years, we have partnered with independent agents and brokers to help policyholders protect what matters most. Backed by superior claims and loss prevention services, Fireman's Fund is there for you before, during and after a loss. And with our deep understanding of your needs as a wealthy individual, we provide the level of service you've come to expect.

Founded in 1863, we began with a promise to support firefighters in their mission to make communities safer. Today, we are an industry leader in high net worth, commercial, entertainment, and green insurance. A member of the Allianz Group, one of the world's largest insurance providers, Fireman's Fund has the financial support to protect the future for you and your family.

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“Financial and insurance
planning need to be part
of the overall strategy.”

TOM ENDERSBE, CEO
ENDERSBE, HERRON AND ASSOCIATES

Things to Consider

- How is your LLC named on your insurance policy?
- Are you liable for more than the value of your trust or LLC?
- Does your trust or LLC have full protection for domestic employees?
- Are you working with a dependable provider of specialized high net worth insurance?
- Do your advisors consult with each other regarding your account?