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Ride the Waves of Retirement Without Wiping Out

Exemption planning is typically not at the top of anyone's to-do list; however, California residents should make exemption planning a priority considering the generous exemption protection provided for Private Retirement Plans under Cal. Code Civ. Proc., § 704.115(b). This statute preserves and protects the assets of Private Retirement Plans at the expense of creditors if the plan is principally *designed* and *used* for retirement purposes. Thus, it is best to cash in on this exemption protection at a time when your financial status is secure rather than waiting for the financial tides to turn to see what assets you are able to save from the unforgiving current.



Heather Kocer
Attorney

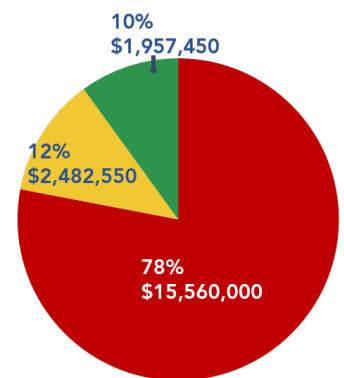
The first step is to determine your exemption protection potential. At Brown & Streza LLP, an experienced exemption planning attorney can assist you by utilizing their Exemption Assessment Calculator ("EAC") and generating a customized Exemption Assessment Report ("EAR"). The EAC applies all of California's current creditor exemption amounts against a client's balance sheet based on the respective asset categories set forth in the statutes. The EAC then factors in current income, the horizon to retirement and standard retirement modeling assumptions to produce an EAR for the client. To illustrate let's take a look at the hypothetical case of Tom, a 57 year old business owner from Orange County with a projected retirement age of 65. Tom has a net worth of \$20 million consisting of: \$900,000 annual income; \$7,100,000 commercial real estate; \$3,300,000 principal residence net equity; \$2,500,000 single shareholder S-Corp; \$2,300,000 stock portfolio; \$2,300,000 cash; \$1,000,000 ERISA qualified pension plan; \$700,000 life insurance; \$500,000 personal property; and \$300,000 rollover IRA.

Based on our customized Exemption Assessment Report, Tom doesn't have to wait for a financial hardship to determine the outcome. The Pre-PRT Exposure Report (also known as the "Creditor Exposure Report") reveals that if Tom fails to do any exemption planning, the bulk of his assets valued at \$15.5 million are within the reach of creditors and a bankruptcy trustee.

Pre-PRT Exposure (aka "Creditor Exposure Report")

Exemption Assessment Report

- **No Exemptions = Fully Exposed**
These assets are fully exposed to creditors, lawsuits, and bankruptcy.
- **No Exemptions = Limited Protection**
These assets can be tactically attacked and potentially seized. It is critical you have these reviewed.
- **Basic Exemptions = Offers Protection**
These assets should be protected but you will want to ensure they are being properly administrated to protect plan distributions.



If, on the other hand, Tom takes advantage of the statutory exemption protection of Cal. Code Civ. Proc., § 704.115(b) and creates a Private Retirement Plan, his exemption protection will dramatically change.

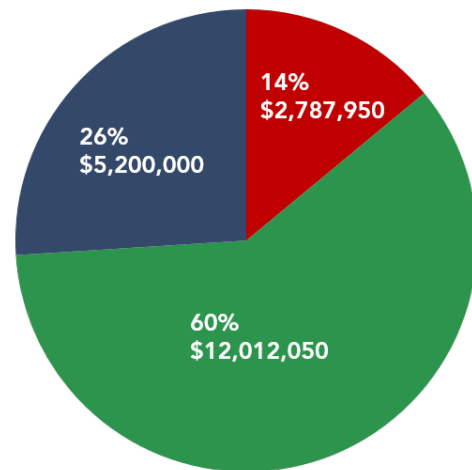
Based on an analysis of his financials as illustrated on page 2 of the EAR below (also known as the "Exemption Protection Potential Report"), Tom can preserve up to 60% or \$12 million of his current assets by:

- Protecting up to \$12 million of his current equity by recharacterizing *nonexempt assets as exempt private retirement assets*;
- Protecting up to \$5.2 million of additional equity using strategic exemption retirement planning; and
- Protecting up to \$3.5 million of future earnings by using the PRT Accelerator.

Exemption Protection Potential Report

Your Strategic Exemption Plan:

- Not Exempt = Still Exposed**
Your capital risk is minimized to your current lifestyle savings only.
- Minimized Exposure = Potentially Protected**
Your limited risk is reduced substantially but should employ additional risk-management tactics.
- Recharacterized as Exempt = Protected**
Over and above your qualified plan assets, your private assets that can recharacterized as exempt for your retirement.
- Strategic Exemption Planning = Protection of Future Values**
You can use your future earnings capacity and recaptured tax savings to protect future estate values as well as current equity assets – including your business assets and home equity.



*\$1,755,833 - \$3,511,666
Strategic Protection: Future Income Protection Range based on the cone of uncertainty. Even after you've protected your home and business, you can also potentially protect this additional amount of future income.

Although Tom's exemption protection potential is 86% of his net worth, recharacterizing this total amount as "exempt" is not practical as such will subject Tom's funding transactions to heightened scrutiny. Rather, it is best to air on the side of conservatism and only exempt some amount less than what can be justified, since being a "pig" may be permitted, while "hogs" typically get slaughtered for being too aggressive. Hence, the need for an experienced exemption planning attorney to consult with and advise you on the particulars of customizing a PRT based on your individual circumstances and future needs, which includes determining the appropriate amount for initial funding as well as annual contributions that will gradually accumulate until you retire.

Take action now to preserve and protect assets for your retirement years. With retirement planning using the potent exemption protection of Cal. Code Civ. Proc., § 704.115(b) through the creation of a properly designed and used Private Retirement Plan, you can realize your retirement goals and prevent your retirement assets from being submerged in a sudden unforeseen tide of creditors.