

# Financial Privacy

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I/R Code: 600 Agent as a Businessman

**E**VERYONE HAS YOUR NUMBER! Banks, credit bureaus, government agencies, and countless other entities methodically are gathering information on the lives of most U.S. citizens, including the agent's clients. Why should the agent's name and assets be available for computer printouts? Why should the agent's privacy be stripped from him or her along with his ability to defend himself against threats to himself and his financial security? Financial privacy may be the answer.

Modern surveillance and seizure methods have placed people and their assets in a precarious position. People and

their assets are identified easily and targeted for lawsuits, seizure, harassment, and theft. Having been stripped of their privacy, there's a real threat now to strip these people of their wealth. Financial planner Wes Wyatt of Stillwater, Oklahoma, says, "Your wealth, the armor against lawsuits and harassments, provides you with the ability to defend yourself. Try to defend yourself against others in the courts without money. See how far you get. Who will defend you? Nobody! A seizure of one's wealth is like snatching a sword from an opponent in a sword fight. Unless you like long odds, protect your wealth with financial privacy."

Over the years, I've seen the gradual stripping of the average person's privacy. Consider the mail the agent receives from others asking for the agent's time or money. How did they get the agent's name and address? Our computer world quickly tells others about the agent: who he is, where he is, what he does, how much money he has, where his money is, how he spends his money, what he likes and dislikes, and what he will purchase. What privacy is left?

The right to privacy is a major concern of many individuals and organizations. What is privacy? Before becoming a United States Supreme Court justice, Louis D. Brandeis, in a Harvard Law Review article in the late 1880s, described the fundamental right to privacy as "... the right to be let alone."

The Constitution of the United States does not spell out the right to privacy. Until the 1974 privacy act was passed by Congress, the Supreme Court gave limited protection to the right to privacy. Congress, in its concern for individual privacy, declared in the privacy act that privacy was a legal right.

Financial privacy should be every-

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one's concern, and it would be, if everyone knew the manner in which his or her private matters are disseminated to others.

Financial privacy is a legitimate concern. It is not limited to use by persons who are trying to evade or violate the law. Financial privacy is everyone's constitutional right. It can be used to protect the agent and his wealth. Wealth is a target of unscrupulous persons and abusive government agencies. If the agent's wealth is not visible or reachable, he will be less of a target.

Wealth is power. It provides the agent with the tools to protect himself. If someone takes that wealth from the agent, the agent becomes helpless and defenseless.

**A person must not use the legitimate right to privacy for the purpose of violating any law, rule, or regulation, or to conspire with others to violate any such law, rule or regulation.** Even the appearance of such use may invite harassment or litigation. For example, a person should not transfer property to someone else without adequate consideration or a valid reason. Any such transfer of property for the purpose of frustrating present or future creditors could be set aside if such purpose is proved.

The agent does not invite a thief into his house. The agent locks his doors and keeps his valuables away from the burglar's reach. In other words, the agent keeps his privacy, and keeps it secure. We all miss the good old days when we had safe neighborhoods where someone's wife and children could walk safely down the street and when that person could leave the keys in the car. Times have changed. Unless the agent moves to a safer place, the agent must change, too. The agent's survival in the future, both physical and financial, means more security and privacy.

What is financial privacy? How does a person get it and keep it? Unless the agent seriously wants financial privacy, is willing to take action to get it, and will work at maintaining it by changing with the times, financial privacy as a topic of conversation will be nothing more than a parlor game.

Financial consultants who fail to provide advice to protect the client's wealth correctly should call themselves "partial financial consultants." The client should ask himself, "Is this financial consultant helping me to protect my wealth from being a target of the unscrupulous?"

**Have you ever heard the expression, "He chased a chicken and got a mouthful of feathers"?** How often will someone keep chasing chickens if all he ever gets is a mouthful of feathers? Financial privacy is feathers, not chicken.

When a person with a judgment against the agent cannot locate assets on which to levy the judgment, that person is getting feathers. If, for example, the agent's car is leased, he owes more on his home than it is worth, and he has no money in his name at the bank, then no equity, thing, or value can be taken from the agent. This is just more feathers.

Keeping assets out of the agent's name personally significantly reduces the agent's chances of being a target. It gives the agent breathing room, keeps his options open and gives him a chance to negotiate. What will happen if someone summarily seized the agent's property and money before the agent had a chance to defend himself or react? What then would be the agent's options? How would the agent feel? It probably would shorten the agent's breath and raise his blood pressure, and also might affect his life span. If the agent likes taking changes, enjoys stress, and loves crisis, he should read no further.

Keeping wealth out of the agent's name personally means that any assets the agent controls must show another handle (name) as their owner. Putting wealth in another person's name, unless it is the agent's children's names, may not be the answer. If that other person dies, his heirs will be happy to own the agent's property. Secret agreements with friends have their drawbacks. The biggest decision in planning financial privacy is deciding what entity will own the property for all the world to see.

Trusts have a nice ring to them, and many people advocate their use. If a question ever arises over trust property, however, complete and full disclosure of the trust documents and the trust background may be required. Trusts can be strange animals. To test their validity, such required disclosure could eliminate any privacy on which the trust owner relied.

Domestic US corporations are one of the best ways to hold property not in the agent's name. This is especially true if the corporations are located in states that have no corporation taxes and that do not require disclosure of the stockholders. In many instances, property can be transferred to corporations without tax consequence or disclosure

of the individual shareholders. The right mix of shareholders can prevent any reporting of names of individual shareholders. Each case must be handled separately to reach maximum privacy.

Some people go to the extreme of using a foreign agent to hold the corporate stock as their agent. In these cases, the agent usually is located in a country with national privacy laws that make it a crime to disclose confidential information. This extreme method must be used with care so that US laws, rules, and regulations are not violated or frustrated.

Financial privacy involving such tangible assets as cash, gold, silver, and coins, is, of course, the easiest to achieve, because such assets can be hidden or stored in secret. There may be no recorded evidence of their existence or location. Converting intangible assets to tangible assets by selling or mortgaging the intangible asset, in the interest of financial privacy, is the safest and speediest method of getting financial privacy, unless, of course, the asset owner tells everyone what he did.

The mortgaged intangible asset becomes the feathers, and the new tangible, movable asset becomes the chicken. If you got lost reading this, you didn't start at the beginning.

**I work closely with many financial planners and insurance professionals across the United States** and most of these people feel that financial privacy equals freedom. I do not recommend, however, that anyone should use financial privacy for illegal purposes.

Financial privacy really is just another form of financial insurance that rightfully could stand alongside other forms of insurance. Gaining financial privacy ahead of time, like buying risk insurance before the injury, means that future problems can be eliminated or mitigated. Of course, the insured must pay for financial privacy, just like he pays for any other insurance. Financial privacy, however, has no peer in some risk areas for which conventional insurance may not be available.

Education of people in the need for financial privacy is lacking. Unfortunately, many people think about protecting their wealth after it is too late and after they already are in a panic situation. Many think, "It won't happen to me. It will happen to some other person!"

The agent should look around himself. It already has happened either to the agent, or to someone he knows.

