The Top 10 TAX & LEGAL MISTAKES MADE BY ENTREPRENEURS

...and How To Avoid Them

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About The Author

Mark J. Kohler is a lawyer, CPA, best-selling author on asset protection and tax planning, national speaker, Radio Show host, blogger for Entrepreneur.com, and real estate investor. Mark is also a senior partner at the law firm Kyler, Kohler, Ostermiller & Sorensen (www.kkoslawyers.com), and the CPA firm of Kohler & Eyre (www.ke-cpas.com).

Mark is a personal and small business tax and legal expert, who helps clients build and protect wealth through wealth management strategies, and business and tax remedies often overlooked in this challenging, ever-changing economic climate. His seminars have helped tens of thousands of individuals and small business owners navigate the maze of legal, regulatory and financial laws to greater success and wealth.

Mark's valuable advice can be found in his powerful first book which became a National Best Seller, "*Lawyers Are Liars: The Truth About Protecting Our Assets". *His most recent book is a fictional story about a family discovering a variety of tax planning strategies, titled "*What Your CPA Isn't Telling You – Life Changing Tax Strategies",* published by Entrepreneur©. It has quickly become one of the premier tax books for business owners and investors.

Mark has a loyal following of fans through his weekly Radio Show, which can be accessed at: www.blogtalkradio.com/markjkohler. Mark is a proud father of four beautiful children and husband to his lovely wife, Jen. They reside in Orange County, California, where Mark practices his surfing skills and loves to exercise in the outdoors.

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Introduction

I have been meeting with clients for years helping guide them through the pitfalls of entrepreneurship and how to better reach ***their*** American Dream. I have loved this journey and have been grateful to meet and get to know so many hard working, creative and determined people from around the country.

However, as you can imagine, not every one of my clients is successful.

Early on, I was oftentimes surprised as to who was successful and who failed in their business ventures. Nonetheless, over the years I have come to discover patterns: **"Patterns of Success" and "Patterns of Failure".** I wish I could give you the perfect equation to be successful in your business; I can't. <u>But, I can tell you what patterns of failure I see and the common mistakes that *clearly* cause my clients to have significant challenges and hurdles in their businesses and personal life.</u>

The purpose of this short e-book is to help you **identify these mistakes** you may be making in your business and holding you back from making more money and saving more taxes!!

Nevertheless, this is **NOT** a book giving you all of the ***details*** of how to implement the solutions to these "Top 10 Mistakes". Frankly, as you can imagine, that could be an entire book, or series of books, in and of themselves.

However, to help you in your quest to better live ***Your*** American Dream, throughout this book I provide references to multiple resources you can turn to for additional education and study.

To this end, over the years I have created numerous videos, published books, and hold a monthly interactive Webinar to provide more guidance. I also have an incredible team of Attorneys, Paralegals, CPAs and accounting professionals in my two firms **that can provide 'one on one' support,** guidance and coaching to you in your individual situation.

Thank you for taking the time to read and review this information. I *know* **the devastating effects** these mistakes can have on a business, individual and family.

<u>Please take these warnings to heart and do your best to avoid them</u>.

Mark J. Kohler
CPA, Attorney and fellow Entrepreneur

Chapter 1

Thinking Your CPA or Attorney is looking out for Your Best Interest

Let me be clear…when you are retaining an Attorney or CPA for a project, or simply in a consultation for example, the licensed professional has a fiduciary and ethical duty to look out for your best interest. **They can lose their license if they don't**. In fact, they have oftentimes taken an oath to represent the client to the best of their ability and advise the client on what's in *the client's* best interest.

However, once that engagement is over, the professional sets your matter aside, moves to the next client, and waits for your further direction.

That's not a 'bad' thing. Don't think the professional is doing anything wrong or has let you down in any way.

IF you want to hire the professional for some 'on going' support service or specifically pay them to 'look out' for your interest, you can do so. Oftentimes, this is referred to as keeping them on "retainer". However, this is expensive and not what the average small business owner can afford to do.

So here's the point:

You are the captain of your own ship!

You have to be looking out for your own best interest. An attorney or CPA isn't going to walk into the office tomorrow and say to themselves "oh…let me call John Doe; I think there is a situation brewing out there he should know about". The professional doesn't have time to do this and unless you are paying them to make that call, they could actually upset you by charging your account and spending time on your behalf without your authorization.

So this means that taking time to read e-books such as this is critical.

I'm not suggesting you file your own tax returns.

I'm not suggesting you represent yourself in Court.

Nor, am I suggesting you start drafting your own contracts or entities.

What I am saying is that I want you to be thinking about tips and strategies and discussing them with your professionals on a regular basis.

Here are some important suggestions:

1. Make sure you are contacting your tax and legal professionals at least once a year to do a 'review' and cover any tax strategies and legal issues.

2. Insure that your professional is **GIVING YOU *ideas*** and you don't have to come up with the ideas and strategies on your own.

3. If they shoot down all of your ideas and are so conservative you feel stifled or suffocated by their domineering approach, fire them and move on!

4. Your professional should be providing ongoing education support through workshops, podcasts, or newsletters at the least. If they don't want to educate you, then you certainly will be on 'your own'.

5. Ensure that your professionals **have the same Risk Tolerance as you do**. If they are too aggressive and scare you, get rid of them. If they are too conservative, then move on!

6. Don't file your own tax returns or play 'lawyer' for yourself. AT LEAST have a professional 'review' of what you prepare on your own do if you're trying to save money.

Bottom line- Find good professionals, but 'a la carte' their service as needed. Realize that you're in charge of your own destiny and unless you're consistently paying someone to direct your affairs (which is too expensive), taking care of your own planning is your responsibility to oversee.

You are the Captain of the Ship…have a good crew…understand where you are headed and then give the orders!

Additional Resources:

See **Chapter 8- Choosing your Colonels and Captains** – *Lawyers are Liars- The Truth About Protecting Your Assets."* See here.

See **Appendix H- The Strategic CPA**- *"What Your CPA Isn't Telling You."* See here.

Chapter 2

"Hand Shake" and Email Deals

We can be our own worst enemy!

It's shocking to me how many small business owners will…

"step over a dollar to pick up a nickel", OR

believe "it will never happen to me", OR

state "they gave me their word".

For some crazy reason, we think it is more expensive to call a lawyer and have them review a contract for one hour, then risk a multi thousand dollar investment to an email chain or a handshake.

Please let me assure you, **it's not 'if'** a partner, vendor or customer is going to drag you into a law suit…**it's 'when'**.

I see so many investors and small business owners lose their business and sometimes everything, including their savings, to a deal gone bad and poor documentation.
In the United States a contract can be created with a simple verbal understanding, not even a handshake is required. Certainly you can imagine that now emails are considered binding contracts in Court and can drag us into unsuspecting relationships and claims.

You may say, "well, if emails are considered binding, then great, why do I need a contract?" "I have the emails that state our relationship and understanding, that's all I need"- **WRONG.**

There are several provisions that are ***critical*** in a well drafted contract that emails would never include. For example:

- A provision for attorney's fees for the non-breaching party if they win.

- Mediation or binding arbitration clause so you *don't* have to go to Court if you don't want to.

- A venue or choice of law provision on which state law would be applied in a contract dispute and *where* the dispute would be litigated.

- **Even basic terms can be missing in a chain of emails**, such as place and time as to the delivery of goods or services, the total price for the project and provisions if it is only partially completed, exit strategies, how losses or additional contributions would be handled.

Essentially, emails don't include all of the 'worst case scenario provisions' that a lawyer would easily catch in a brief review.

You will see in the 'Additional Resources' below, I've had several Radio Shows dedicated to fraud and the pitfalls of investing with others.

PLEASE don't take this to mean I think 'partnering' or investing with others is a bad thing… it can be wonderful.

However, if you're going to invest with others, you need to be careful and cautious, yet optimistic and hopeful. I often state:

> "**Negotiate like enemies…sign the deal…and then operate like best friends."**

Affinity fraud is one of the greatest types of scams in America today. This is where a person in a relationship of trust talks another into investing with them and doing so without proper legal documentation or review.

The person could be a neighbor, a friend, a boss, a church leader, and oftentimes a family member. They have no plans of paying you back and want to ***risk your money*** not theirs. If it pays off…great! If not, you're left holding the bag.

Please watch out for these 'red flags' and 'key indicators'! They will oftentimes use phrases such as:

> ***"We don't need an attorney…don't you trust me?"***

> ***"We have to hurry or we are going to miss out on this deal?"***

> ***"Trust me, I have done tons of deals just like this. We can use the documents I used before and save the cost of an attorney"***

When you hear these sorts of statements, make sure that you get a written agreement, reviewed by a third-party that's looking out for your best interest.

I also want to talk about **YOU** as the 'promoter' or maybe bringing a deal together. Maybe it's not *your* money on the line. That's great. I'm excited for you and the opportunity before you.

However, losing your own money can be the least of your worries. If a partner of yours feels like they are being treated more like an investor, and claim you violated securities laws, **you're potentially going to jail**. That's right!

Be very very careful when doing deals with others; taking the money of others and then losing their money. These **"victims" as they will call themselves**, will ultimately contact every Federal, State, City and County agencies, and prosecutor, and your life just got A LOT more complicated.

Bottom line- When you are partnering with others consider using a formal entity, and at the least use a quality contract and have it reviewed by an attorney. If you are investing your money with others be even more cautious to double check the investment and the character of your partners, as well as using good documentation. Finally, if you are taking the money of others, understand the seriousness of the role you are playing and be respectful and cautious, encouraging legal representation for your investors and having clear documentation.

Additional Resources:

See **Chapter 11- The "Must Do's" if you own a Business or a Rental Property** – "*Lawyers are Liars- The Truth About Protecting Your Assets."* See here.

See Radio Show- "Avoiding a Lawsuit and Winning if You Battle."

See Radio Show- "Partnership Pitfalls and Doing it Right."

Chapter 3

Operating Under the Wrong Entity

I realize that some of you are sick of hearing about this topic. I also imagine many of you think you already know it all and have your structure already figured out.

Let me give you a little test: True/False

- □ An LLC can save me taxes.
- □ A C-Corporation will save me more taxes as a small business owner
- □ A Corporation gives me better asset protection than an LLC
- □ A Nevada or Wyoming Corporation will save me taxes or give me better protection even when I don't live or do business in those states
- □ The IRS highly audits S-Corporations for salary allocations
- □ A Sole-Proprietorship is always a bad entity
- □ An LLC in every state will protect my rental from creditors if I get in a car accident

The answer to **EVERY** one of these questions is False. Yes…False. I back up my opinions on these points as a licensed attorney, CPA, author of two books quoting experts around the country and writing or posting hundreds of articles and podcasts speaking the truth!

99% of the time, the ONLY people that disagree with me on these points are ***NOT licensed professionals***, but promoters on websites with their 'so called' attorneys in the back rooms giving them support.

I am **SO SICK of scam artists** around the country in this area of the law selling over priced entities in the **WRONG** states, at the **WRONG** times to small business owners.

Here is the 'Mistake' simply stated. Small business owners don't get a second opinion or get some education on this topic from licensed professionals (attorneys) that are actually going to set up their entity and maintain it for many years to come.

They simply rely on tax and legal advice from real estate gurus, internet marketing geniuses, multi-level marketing wizards and call center sales people, ***RATHER than advice from licensed professionals***.

These people speaking on stages and webinars are oftentimes experts… I **AGREE**. But not experts in tax and legal matters! Just because it's the structure that worked for them in their state, doesn't mean that it is the best thing for you.

Listen to them for the experts they are in their area of business, but not tax and legal.

Here's the misconception: It has to be expensive to use a Lawyer- **WRONG.**

Even at our office we have a discounted Paralegal service that is cheaper than LegalZoom. However, we provide tons of education and support upon a client's request from licensed lawyers that will stand behind the advice.

So here are some basic Truths:

1. LLCs don't save taxes, they're built for asset protection
2. C-Corporations 99% of the time don't save taxes for small business owners
3. S-Corporations are much more productive for the small business owners
4. Nevada Corporations don't save taxes or provide better asset protection in a non-Nevada state
5. LLCs in only 13 states provide protection for your rental *from* you. A technical point you need to understand.
6. Sole-Proprietorships can be a smart choice at times and certainly for hiring children in your business.

Bottom line- This is a huge topic. If ANYTHING I stated above leads you to believe you may have the wrong entity. Please get a second opinion from a licensed professional…even if it isn't with me. That's fine. But just double check your structure. **YOU** are the Captain of the ship!

Additional Resources:

See **Chapter 3- The Truth About Nevada Corporations!** – *Lawyers are Liars- The Truth About Protecting Your Assets."* See here.

See **Appendix C- The C-Corp versus S-Corp Debate- Who wins?**- *"What Your CPA Isn't Telling You- Life Changing Tax Strategies".* See here.

See my ***"CFO In-A-Box On-line Video Series"***- 12+ different videos and more uploaded constantly on topics such as 'Choice of Entity' and tax strategies that actually work. See here.

Chapter 4

Not Making Quarterly Tax Deposits

Please don't skip over this chapter. I know you will be tempted to do so.

Not making quarterly deposits **can absolutely devastate a small business**. When springtime comes around and you discover you have a huge tax bill, the stress level can go off the chart.

It is very difficult to 'bankrupt' out of a tax debt (not that any of us want to claim bankruptcy anyway). Also, please don't get sucked into one of those TV commercials promising settlement for pennies on the dollar.

We help clients as a regular practice in settling debts with the IRS. Please know that **huge settlements are rare** and difficult to achieve…a payment plan is the reality many taxpayers face.

> ***Just get down the process of Quarterly Deposits, know what you need to do, set it up on auto-pilot, and be done with it.***

There are essentially two types of deposits to be aware of.

First, make a federal or state tax deposit. This is an estimated deposit based on what you think you are going to owe in Federal and State taxes. It has nothing to do with Payroll Taxes or Sales Tax. Here are the facts:

1. It can be done as part of a payroll report OR Estimated Tax Deposit slip.

2. Deposits are typically made on April 15, June 15, September 15, and January 15.

3. These are normally a part of a W-2 for employees, but entrepreneurs need to file a separate form, be proactive and have a plan.

4. It's based on what you owed last year.

Simply do the math as to what you owe and make the deposits!

Second, if you have an S-Corporation OR you have employees, payroll deposits are critical.

This is the most serious type of quarterly deposit. The IRS treats payroll deposits as to what you're withholding from employees *and the match,* as **"sacred funds".** It's not uncommon to see employers actually go to jail for keeping deposits and never remitting the funds to the IRS.

One might think it's a straightforward process and system, however, I rarely recommend you do your *own* payroll. The 'tables', deadlines, forms and procedures can vary drastically depending on the number of employees or your total amount of payroll.

You can actually be required to make deposits monthly or even weekly depending on the amounts of your deposits. You can also be required to make the deposits through your bank rather than simply sending in a check.

Why this can be such a mistake by small business owners, is that these **deposits can add up fast!** If you get behind, it's a snowball that can turn into an avalanche. Pretty soon you're drowning with cash flow problems and don't have the money for payroll; it can quickly get very ugly.

If you have to choose between paying rent or paying the IRS- Pay the IRS.

Your landlord doesn't have the same power as the IRS. The interest and penalties can add up to the point where you can't dig yourself out.

Bottom line- Get with your CPA *and* Payroll service (which may or may not be the same company) and establish your quarterly deposit schedule and payroll procedures. This is an area in which you **CANNOT** cut corners.

Additional Resources:

See **1040-ES Estimated Tax for Individuals –** Instructions and Forms. View here.

See **(Circular E) Employer's Tax Guide –** IRS Publication 15. View here.

Chapter 5

Not Filing Tax Returns

I know this may seem shocking to some of you that this is common enough that I would include it in my top ten.

Also, I imagine others completely understand why I would list this as a concern. I know some of you reading this have had a significant burden on your shoulders stressing about unfiled tax returns.

Let me be clear…

- Not filing a tax return is the quickest way to get an audit from the IRS.

- Getting into an audit is the quickest way to owe more in taxes and incur significant accounting and professional fees to dig you out.

- Hence…your business can face a major blow by not filing a return and could **knock you right OUT** of business.

Now I know what happens. You can't pay your taxes, OR you can't even afford to pay a professional to help you with the books or file your return, SO you decide the best thing is to **not** file.

PLEASE don't fall into this trap.

If you can't pay your taxes or even do a good job prepping them, **AT LEAST** file your tax returns and error in favor of the IRS.

You can always amend the tax returns later (which may be in your favor), <u>but don't file a tax return that shows you owe the IRS significantly less than you probably do. That could certainly make things worse.</u>

The point is NOT filing a return is the quickest way to dramatically increase your penalties and again, don't forget that "audit thing".

O.k. this was short and sweet. No additional resources. Just hurry and file those old returns and don't skip filing…even if you owe. **It's far better to be working on a payment plan than leaving the IRS guessing as to what you're doing.**

Chapter 6

No Bookkeeping and Receipts Strategy

FACT: Good Bookkeeping saves you money

FACT: Good Bookkeeping helps you make better decisions

FACT: Good Bookkeeping actually saves you far more than the cost to do it

FACT: Not keeping receipts will kill you in an Audit

MYTH: **Bookkeeping has to be a pain and expensive**

I know that for many small business owners, doing the bookkeeping is like cleaning the bathroom. You put it off as long as you can, and then get in there and do the bare minimum.

However, I think many under estimate the power and value of good bookkeeping. Consider the following:

- How would it be to make **'real time' decisions** with accurate information on your sources of income and expense levels? Get reports monthly so you can adjust what you're spending in certain areas or discover sales are down with a particular product or service.

- Could you make ***better tax planning decisions*** throughout the year having an accurate picture of your net income?

- Would you save money having a systematic approach rather than paying premium rates at the last minute to your tax professional to 'put things together' at the last minute?

- What would your stress level be by knowing that your books are in good order and the feeling of **empowerment** to make better decisions when expanding, hiring, and ordering more materials or supplies?

I think **YOU KNOW** the answers to these questions.

But how do we start the process?

No beating around the bush and I hate to just say it…but any small business owner starting to have success and making money needs to quickly embrace **QuickBooks©**.

QuickBooks© is by far the industry leader in a simple and affordable software package that can bring the whole process together.

With that said…Who does the dirty work of cleaning the bathroom?

You have 4 options

1. **YOU do all of the input** and learn the basics of QuickBooks. I'm not opposed to you learning the basics. In fact, I highly recommend it. You need to at least be able to print out reports and check the accuracy of your staff doing the work. But you still may want to hold off delegating any part of the process and dedicate a few hours a week to basic input and micro manage the process yourself.

2. **Hire a family member to do the work**. I LOVE this idea when you have teenagers or young adults that you are supporting financially. This is a great way to make them earn their keep and teach them about entrepreneurship in the process. They will learn about the heart and soul of small business by doing the books and recording the income and expenses. It's a great tax write-off too!!

3. **Engage a local bookkeeper**. This could be a local college student wanting internship/externship hours. It could even be a seasoned bookkeeper with reasonable rates. Some small business owners love the idea of someone coming by the office 1-2x a week to input data and print out reports. It can be very affordable and free up a lot of your time to do what you know best- make money for the business. This is also a natural step in the growth of a business before choosing option 4.

4. **Using your CPA or Tax Professional throughout the year or at tax time.** Many small business owners like the comfort and security of knowing that they have a highly skilled office doing their books *and* the one-stop shopping of where the tax planning takes place too. It may seem more expensive, but the impact of better long-term planning and a higher quality of books can far exceed the cost. Certainly the more mature business and seasoned business owner will 'graduate' to a more experienced bookkeeper when the time is right. Not everyone needs to go to this level, but the time will come if your business continues to grow.

Now a word about Receipts.

Keeping receipts is also a necessity in small business. With the risk of audits from the IRS or State agencies, we just can't ignore this reality.

HOWEVER, technology is on our side.

Going paperless never sounded more sexy and attractive until we thought of scanning all of those receipts and saving them to a flash drive or a 'cloud' server.

Smartphones even make it easier. We can take pictures of receipts while out on the road and have the 'scan' coordinated with our bookkeeping if we choose the right software system.

There are 'Apps' and desktop software like Neat Receipts© that can speak with QuickBooks© and integrate our 'books' to levels we never dreamed of as a small business owner. **It almost makes me want to cry…it's spiritual!!**

Wouldn't it be exciting to know all of your receipts are kept in a backed up offsite storage system, along with your bookkeeping records, and your accountant can access all of this data offsite or from across the country? It's actually AMAZING what technology can offer and for pennies on the dollar.

> ***Just make it a habit. Put your receipts in a pile and scan them or shoot a picture of them on your Smart Phone capturing them in a folder you can print out in the future if necessary.***

The IRS accepts a copy of a receipt and that disappearing ink on your Home Depot© receipt will never be a problem again!

Bottom line- Start SOME SORT of system and embrace the fact that bookkeeping is a necessary and critical aspect of owning a small business. There is no way around it. The sooner you realize this, the sooner you can start saving taxes, and making better decisions in your business. **Don't feel overwhelmed. Investigate your options and embrace technology.** It can truly be your friend in this situation.

Additional Resources:

See **Appendix A- Bookkeeping Basics**- *"What Your CPA Isn't Telling You."* See here.

See my ***"Strategic Wealth Alliance- Monthly Webinar Series"***- Bringing it all together, Quick Books Basics, and the Pitfalls of Lazy Bookkeeping. See here.

See my ***"CFO In-A-Box On-line Video Series"***- 12+ different videos and more uploaded constantly on topics such as 'Bookkeeping Basics'. See here.

Chapter 7

Lacking a Coordinated Health Care Strategy

Managing one's health care strategy is more important than ever! Seriously.

Have you heard of a little thing called "ObamaCare" or otherwise known as the "Affordable Health Care Act"?

Now I won't get into the 'good and bad' of ObamaCare…Frankly, there's both. In fact, I don't care if you are a Republican, Democrat or Independent. You could truly find provisions of the Legislation that will help you **AND** provisions that will cost you.

I'm also not going to explain the rollout on the various provisions of ObamaCare over the past 5 years and in the years to come. (I have multiple Videos, Webinars and Podcasts covering the topic of health care and strategies to consider)

However, I will say this…IF YOU DON'T DEAL WITH and understand 'Your" particular health care plan (and I don't mean health insurance plan), it will certainly cost you.

There is A LOT more to consider than just health insurance.

Let me ask you NINE questions to get you thinking…

FIRST, <u>are you deducting your health insurance premiums properly</u>? Do you have a small business? If you don't, the reality is that if you're paying for your own insurance premiums, or those of a family member, and **NOT** getting any type of write-off for insurance premiums.

This is one of the main reasons I talk about **owning a small business**! It is to take advantage of deductions the average American isn't able to. Health Insurance is one of those big expenses. In fact, I have had clients set up corporations just so they can qualify for group insurance and implement ways to write-off big health care costs (something I'll discuss more fully below).

SECOND, <u>are you paying for the insurance of others in a small business</u>? There are fantastic tax credits for small business owners when they pay for the insurance of their employees.

If your CPA / Tax Preparer is worth their salt, then they should already be all over this tax credit.

THIRD, now comes the insurance plan question…and it's a big question with not many answers. Do you know what your health insurance will look like this coming January?

Buckle Up! The new 'Metal" health insurance plans are coming out in January 2014. Open enrollment for all of us begins this Fall and trust me, you're going to hear a lot about it.

- Essentially, you will have to choose between a Platinum, Gold, Silver or Bronze plan with different benefits, deductibles, and of course, premiums

- ALL INSURANCE Companies are moving over to this type of classification as required by ObamaCare, AND the State Exchanges will have the same structure and format.

- If you have insurance covered by your employer, count yourself lucky and enjoy the ride.

- If you don't have insurance coverage as an employee, you will be required to GET INSURANCE or **face *penalties* for not getting your own plan**. Ohhh, if you feel this is a violation of your rights and unconstitutional, the Supreme Court said: NOT!

FOURTH, are you going to be penalized for **not** providing health insurance for your employees? Some of you employers out there might be entitled to the Small Business Health Insurance Tax Credit, but if you are too large, then you're going to get ***penalized* when you don't cover your employees.**

Essentially, if you have more than 50 full time employees (or equivalent when you add up your part-timers), then you are going to have to 'pony up' and start covering all your employees to some degree.

This is a big deal and if you watch the pundits on Fox News they are going nuts and interviewing the likes of Ron Paul who still thinks the American public is going to demand repeal of ObamaCare- I doubt it. The Supreme Court has spoken and the American People spoke when they rejected Mitt Romney.

So...if we are going to try and cover the 40 Million of Americans that don't have Health Care. This is going to be one of the major ways we pay for it.

FIFTH, do you have to buy your own Health Insurance? If so, then you may want to look at the "State Exchanges" that are ***supposed*** to provide a "more affordable" type of insurance. This we expect will be a Bronze plan.

As I stated above you will have to start 'shopping' this Fall for Insurance. I wish you the best and I don't mean to be rude about it. It will be a new maze for all of us to figure out.

SIXTH, once we get over the insurance topic, how are you going to write-off all of those out of pocket medical costs and are you going to try and 'itemize'? What about dental, chiropractic, co-pays, deductibles, prescription drugs? Good luck!

The amount you can deduct just got a HAIR CUT in 2013!! That's right, you can only deduct health care expenses over and above 10% of your Adjusted Gross Income. Soooo, if you make 100k AGI, and have $10,200 in expenses, you can only deduct $200. **Only the amounts over 10% of AGI are deductible**. Crazy!! I don't recommend this strategy.

SEVENTH, have you heard of a Flexible Spending Account ("FSA")? Does your employer provide an FSA for you and other employees under a cafeteria plan? Well, you probably are wondering if this is a "Use it or Lose it Plan"…and if so, you are right.

Moreover, these plans also got gutted this past year and only allow employers to put up to $2,500 in your account. Thus, if you have more medical than $2,500, forget it. If you have less than that, then you better use it OR lose it!

EIGHTH, have you considered a Health Savings Account ("HSA")? I LOVE these and they are great for the healthy. You can take a tax deduction of over 6k as a family/couple or 3k as a single, put the money into an account that grows from year to year, you can invest it like an IRA, you can pull it out anytime for healthcare without a penalty, and if you don't use it you don't lose it.

If you haven't looked into these, please do a little homework. **They are incredible!!** They will be included in the State Exchanges and probably be in the Bronze type of plan.

For my **NINTH** and final question, have you heard of a Health Reimbursement Arrangement ("HRA")? If you are a small business owner, and have higher than average medical expenses, this is a fantastic strategy.

The HRA isn't based on insurance, it's not a 'fund' that grows or you can lose, and it's extremely affordable to administer.

HOWEVER, you must have a small business to utilize an HRA. So if you do, you can write-off all your health care costs over and above insurance.

Bottom line- I suspect one or more of these questions got you thinking about your own health care strategy. I hope it did.

There are so many different options you have as a small business owner. It's actually astonishing how the code is structured to benefit the small business owner versus the average tax paying American.

Let me make a few practical suggestions:

1. **Tackle your insurance situation first. Are you writing it off properly, do you have to cover any employees and are you getting any tax credits in the process?**

2. **Next, consider the type and level of insurance you have. Could you save on premiums and self-insure yourself more for minor things.**

3. **Finally, how are your writing off the out of pocket expenses over and above insurance. For example, co-pays, deductibles, prescription drugs, dental, etc… Would an HSA or HRA benefit you?**

IF ANY of these questions got you thinking, you **MIGHT** be able to avoid one of the Top 10 Tax and Legal Mistakes by Entrepreneurs.

Additional Resources:

See **Chapter/Concept 7- Your Health Care**- *"What Your CPA Isn't Telling You."* See here.

See my ***"Strategic Wealth Alliance- Monthly Webinar Series"***- Health Care Strategies that can save you thousands!. See here.

See my ***"CFO In-A-Box On-line Video Series"***- 12+ different videos and more uploaded constantly on topics such as 'Health Care Strategies and Obama Care'. See here.

Chapter 8

Not Buying Real Estate

I truly feel this is a mistake.

I'm not saying ONLY buy real estate. Certainly we should be diversified with our investment dollars. Having stocks, bonds, mutual funds, notes and a whole host of other investments are very important as well.

I also understand that real estate isn't for everyone. This could be because of your age, personality type, financial resources and probably several other good reasons.

HOWEVER, the reasons for NOT buying real estate **shouldn't be the lack of capital, credit or knowhow**. Each one of those can be acquired through time and energy, *even thru partnering with others if your lacking in one particular area.*

Now why do I say it could be a mistake NOT to buy real estate? Let me just name a few reasons:

- The tax write-offs are incredible when you treat it as a small business. You may get to use those deductions against your ordinary income, but if not, they will carry forward until you sell *any* rental property.

- The value of the property will grow tax free until you sell, and you may even use other strategies to delay or avoid the gain entirely.

- The far majority of rental properties allow investors to create tax-free cash flow based on the amount of write-offs related to the property.

- You can leverage your money to buy more 'investment' and thus increase your ROI- Return on Investment (something you can't do with stocks, bonds or mutual funds).

- You can involve family members, travel to check on your rentals as a valid business deduction, enjoy average appreciation and growth that out performs Wall Street, and a variety of other benefits….HOWEVER

- **MOST IMPORTANTLY**…it's like a forced retirement plan. Why I say this is because we as Americans are generally terrible at saving money. We may *try* to save a few dollars in our IRA or 401k, or even in an after-tax account…but let's face it, our savings rate is terrible.

  BUT WITH A RENTAL PROPERY, we have a greater sense of commitment for some reason. We feel the urgency to maintain the property and keep working on it, and even struggling through the bad cash flow at times.

  Maybe it's because our credit could be on the line, or because we don't want to lose our capital or down payment, or just because we feel like we are more in 'touch' with the investment and feel like *we can* save it when times are tough.

  Whatever the reason, it becomes a "forced retirement plan" and in the long run we won't regret it.

This is why I consistently suggest that we should buy 1 rental a year.

Although over time some of our rentals will be 'dogs' and others 'winners', on average we will out-perform the stock market, build more wealth and typically tax-free cash flow along the way.

REALITY CHECK…

Is it sometimes hard to manage rental property- from a distance or local? - **YES!**

Can we buy bad property at times? – **YES!**

Is there risk buying rental property – **CERTAINLY!**

Should ALL of us buy rentals? – **NO!**

But there's another wonderful aspect to Rental Real Estate I LOVE…and that is we can study, learn, network and associate with other investors to *learn what the pitfalls are*.

We can also 'partner' with others and spread the risk with others.

THERE ARE SOLUTIONS!! KNOWLEDGE is *Power* and will reduce Fear!!

<u>I encourage all of my clients to find inspiration and guidance from other successful real estate investors.</u>

I encourage all of my clients to NOT TRUST anyone, and be cautious, careful and conservative. Do their homework and shop…looking at many properties.

I encourage them to focus on 'cash flow' and the numbers NEVER appreciation.

Don't make the mistake of thinking Social Security or saving a few hundred bucks a month is going to allow you to retire in the 'lap of luxury'. IT WILL NOT.

There is hope!!

We CAN have a retirement. We can build wealth. We can buy properties with bad credit. We can buy properties with no money down. We can partner with others to MAKE IT HAPPEN!

Now do I sell real estate? No.

However, as your CPA, **I'll tell you if you want to build wealth, give me something to work with on your tax return, and feel like you are more in control of your retirement money**…PLEASE consider rental real estate.

Bottom line- My wealthy clients own rental real estate. They do!! ALMOST EVERY one of them. So many people ask me… **"What are your successful clients doing Mark? How are they surviving the economy?"**. I tell them, it's a combination of several factors and EVERY time, I mention rental real estate as a key strategy. Sounds crazy doesn't it…but it's not. We just don't think '*we'* can do it for some reason. But we can. Don't hold yourself back and make the mistake that you can't buy rentals. Attend a local real estate investment club, start learning, and catch the vision!

Additional Resources:

See **Chapter/Concept 5- Rental Real Estate**- *"What Your CPA Isn't Telling You."* See here.

See my ***"Strategic Wealth Alliance- Monthly Webinar Series"***- Why Rental Real Estate. See here.

See my ***"CFO In-A-Box On-line Video Series"***- 12+ different videos and more uploaded constantly on topics such as 'The Power of Rental Real Estate'. See here.

See Radio Show- "Where to buy Rental Real Estate in 2013"

See Radio Show- "How to Wholesale Real Estate Deals"

Chapter 9

Leaving Your Retirement to Manage Itself

I realize this isn't a topic many of us get excited or embrace. In fact, I think people hate this topic more than tax planning itself (but maybe that's because I'm a CPA and want to pick on someone else).

But truly…I don't know if it's **human nature,** or **'American' nature**. But I meet so many people in their 60s, now having a rude awaking that Social Security and their meager 'company' plan requires them to keep working.

> ***Many of us are operating under a fall sense of security and putting our heads in the sand when it comes to our retirement planning.***

We can't just think it will take care of itself!

I want to make three separate and distinct points in this Chapter, (1) Funding a plan, (2) Working with a Financial Advisor, and (2) Self-Directing Retirement plans. **PLEASE** hear me out.

1. Funding a plan. Let me say this differently. JUST FUND SOMETHING!! I don't care if it's just $50 a month and your in your 20's, OR in your 60's. Get into the habit and start NOW!

From a tax planning perspective this can be a huge benefit and strategy on your tax return as well.

Entrepreneurs have MORE options than any other group of Americans.

You can design a retirement plan 'tailor made' to your level of income, number of employees and your financial wherewithal to make contributions. In fact, if you're a Solopreneur with no employees or significant turn over, you can be very very aggressive on contributions to your OWN plan.

Now I realize that <u>what you invest in is a separate topic</u>, and a challenging one at that (I discuss this a little further below).

However, the first step is at least saving SOMETHING and getting started. Give your CPA something to work with. Give your future a chance!

2. Financial Advisors. I know some of you may have a full blown financial advisor, some have a stockbroker or banker you speak with *once in a blue moon*, and then the far majority of you who have no advisor at all.

Please know Financial Advisors come **in all sorts of sizes and colors**.

Don't have preconceived notions to you who and what you are looking for…especially if you are new to this whole process and have never worked with an 'advisor' before.

At a bare minimum you should have SOMEONE you talk to about your finances regularly. Even if it's with your CPA or Banker for a few minutes each year- at least it's a start. Now, keep in mind I wouldn't suggest they 'replace' a true financial advisor…but many of you just need to start the conversation and thinking about it.

A Financial Advisor (at least initially) doesn't have to be expensive, or ever a licensed individual – <u>however be very very cautious who you take advice from and pay fees too</u>.

> ***Get second opinion when anything sounds "too good to be true"- and I don't care how successful you are or the gobs of money you may have.***

When I talk about getting started and just speaking with someone about your finances, that's what I mean. So many people just don't even have the discussion.

You can certainly graduate up to more sophisticated and well paid Financial Advisor as your education on the topic grows; *as well as* your investments and net-worth.

FOR THOSE OF YOU ALREADY with a Financial Advisor…I just want to say a few things:

> Be **diverse**
>
> Get second **opinions**
>
> Have **different risk levels** in your portfolio.
>
> Don't give up on what Wall Street would call **non-traditional**: Real estate, precious metals and private equities.

3. Self-Directing.

Some of you may have heard of this strategy or concept AND may already be self-directing a portion of your retirement accounts, if not…**listen up!**

This is an exciting opportunity for many investors who feel stymied and limited by what their current Financial Advisor may provide.

Essentially since the 70's when retirement plans were first created, individual investors could 'self-direct' and invest their retirement accounts in what they know best.

This could be real estate, small business or non-traditional investments

Yes, there are some prohibited transactions. For example you can't buy properties from yourself or family, and you can't take a salary from a business your retirement account owns a majority in.

BUT there are so many other options and benefits to setting up a company owned by your IRA, in which you can be the manager making quick and creative decisions on how that money is invested.

Now, is self-directing for everyone…absolutely not. And if you listen to **Jim Kramer on Mad Money© he will tell all of his listeners that they are crazy to self-direct**. However, this is the typical Wall Street approach to this topic: *"Let us invest your money, we know best, not You!!"*

If you believe your Financial Advisor is that much more knowledgeable than you and/or you don't have the time to get more engaged in your retirement plan investments- then certainly, stay away from self-directing. Seriously.

HOWEVER, if some of you want more freedom, feel you have some **great ideas** your IRA could be making money doing, then look into Self-Directing.

Bottom line- We have GOT TO BE more engaged in our retirement planning. We know this, we feel guilty about it, but now it's time we do something about it. Study more, get engaged and you will be pleasantly surprised at all of your options and the potential you have to succeed .

Additional Resources:

See **Chapter/Concept 8- Discovering Plutonium-** *"What Your CPA Isn't Telling You."* See here.

See my ***"Strategic Wealth Alliance- Monthly Webinar Series"***- Self Directing Your Retirement Plan. See here.

See my ***"CFO In-A-Box On-line Video Series"***- 12+ different videos and more uploaded constantly on topics such as 'Maximizing your Retirement Plan Contributions" and "Self-Directing Your Retirement Plans". See here.

See Radio Show- "Real Financial Planning that Makes Sense"

See Radio Show- "Self Directing Your IRA- Tips and Strategies"

Chapter 10

Throwing Caution to the Wind with Asset Protection and Estate Planning

My successful Entrepreneurs **"Bring it all together".**

When they don't, it costs them in

Lost tax savings;

Disorganized books and stress;

Unnecessary litigation and lawsuits;

and family assets being squandered

So what's the Tax and Legal 'Mistake' here in one more creative phrase:

The "It won't Happen to Me" mentality

Well, let me just say it's not "if"…it's "when".

You will die and if you don't have an Estate Plan it will cost your family thousands of dollars, hundreds of hours, heartache and wasted assets.

You will get into a lawsuit, or at least the threat of a lawsuit, when you are an entrepreneur and chances are you'll get into several squabbles.

First, let's talk about Asset Protection and let me dispel some myths.

It doesn't have to be *elaborate*, *nor expensive,* and it can be *tailored* to your situation.

I consistently caution small business owners around the country to watch out for 'scam artists' overselling Nevada, Wyoming and Delaware as the 'holy grail' of asset protection. That couldn't be farther from the truth!

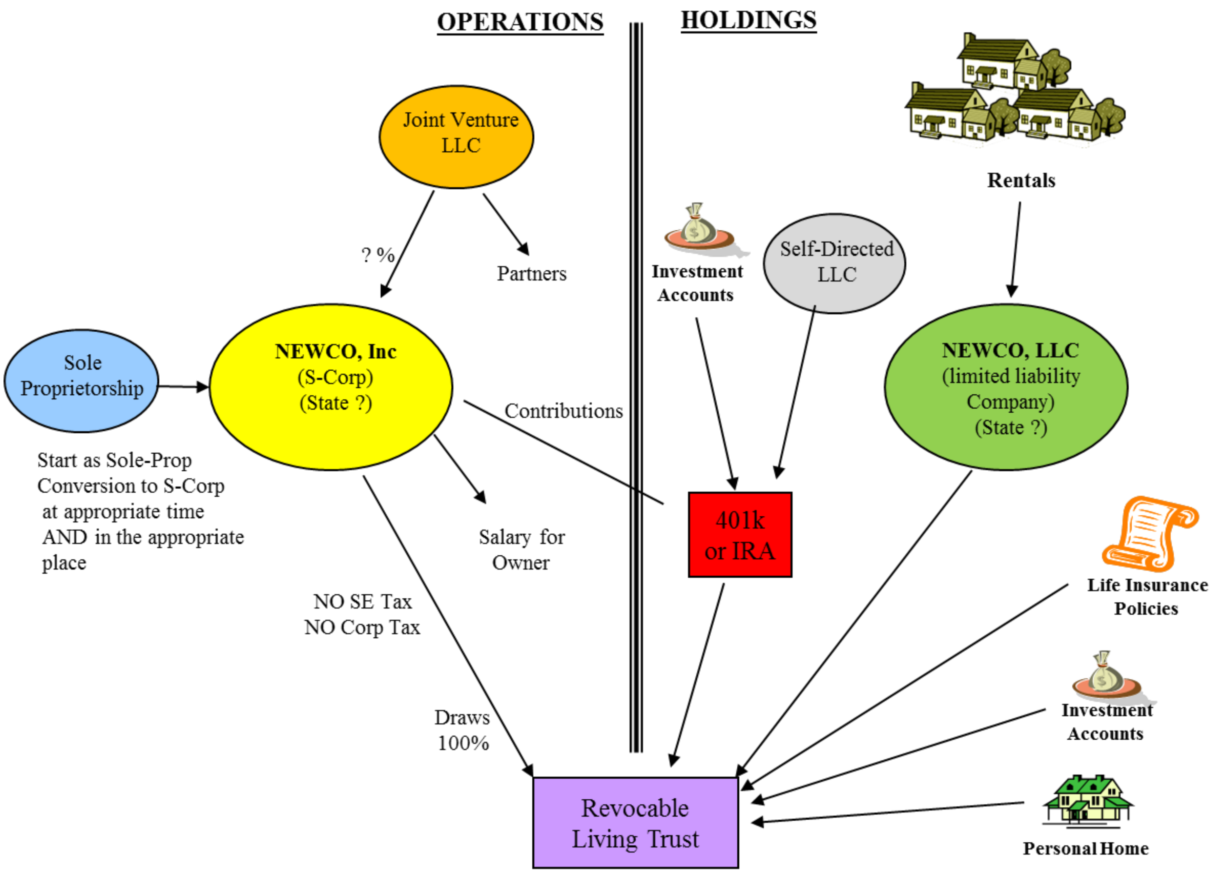
In reality, Asset Protection can actually be ***affordable***, ***straight forward*** and ***effective****.*

Asset Protection also starts with barriers that are simple to implement without the use of a lawyer. In fact, you need to know what rights and protections you already have in your State. This is a great first step in asset protection planning.

I build diagrams for my clients every day that range from the simplistic to the complex depending on the number of their assets, their net-worth and where they're located.

There is no 'one size fit's all approach'.

HOWEVER, to give you a 'visual' of what this *may* look like, here is a typical diagram that would be a starting point for a consultation with one of my clients.



Again, the primary mistake is not having any plan at all. **GET A PLAN!!!**

In my Workshops I go thru countless variations on the above layout and the purpose and types of different entities…where to set them up and how to maintain them for maximum asset protection.

<u>Second, let me just mention Estate Planning</u>. Notice in the diagram above that the 'foundation' of your tax and asset protection plan is your 'Revocable Living Trust' or Estate Plan.

EVERYTHING you own should be coordinated with and/or owned by your trust.

Let me make the important point- ***YOUR NOT GOING TO LIVE FOREVER!***

Over 60% of Americans don't have a Will. There are Courts, Lawyers, systems and entire industries established and funded by the process of people dying with no plan.

Who pays for all of this? Your family with YOUR assets when you're gone!

An Estate Plan will **avoid probate** upon your passing, **distribute assets** to beneficiaries with rules and guidelines, and potentially **avoid Estate Tax** depending on your situation.

However, keep in mind that an Estate Plan won't provide asset protection or 'hide' you or your assets from your creditors. That's not its purpose or role. Your Asset Protection Plan provides those benefits.

Bottom line- Asset Protection first starts with awareness as to the benefits in your state, then an analysis of your assets and what you *really* need. The Scam Artists will tell you that you need something elaborate and expensive- **Watch out and get a second opinion if you feel it in your gut**….and for crying out loud. Get your Will and Trust finished. Don't leave your loved ones a mess, and if you don't have anyone you want to give your assets too, then at least give it to a charity rather than to the government and lawyers.

Additional Resources:

See **The WHOLE BOOK!** – *Lawyers are Liars- The Truth About Protecting Your Assets."* See here.

See my ***"Strategic Wealth Alliance- Monthly Webinar Series"***- Asset Protection Strategies See here.

See my ***"CFO In-A-Box On-line Video Series"***- 12+ different videos and more uploaded constantly on topics such as 'Asset Protection and Estate Planning Module'. See here.

See Radio Show- "Trusts for your Digital Music, Guns and Pets"

Summary

I KNOW how hard it is to be an Entrepreneur. It isn't easy…but I truly feel it's worth it.

It's an incredible empowering feeling to have 'flexibility' in your workday *and* night, as well as the upside of unlimited potential for growth and success. Not to mention, your business should be something **YOU** love, since you chose to do it.

Don't give up!

Keep learning!

Try to avoid these mistakes I listed above. They are for real and I meet with clients EVERY DAY trying to solve these problems.

THANK YOU for reading through this e-book. I took A LOT of time to share these thoughts, feelings and strategies with you.

I tried to present them in a format where you obtain the maximum benefit from the concepts with links to additional resources to learn more.

God bless. Hang in there!

Mark J. Kohler
CPA, Attorney at Law, Entrepreneur, Family man, Surfer

** For more information or a consultation with one of our attorneys, CPAs, Paralegals or Accountants, serving clients nationwide, please call us at **888-801-0010.***