# ASSET PROTECTION PROTOCOL

## SAFEGUARD YOUR MINISTRY'S FINANCIAL FUTURE

Strategic Framework for Protecting Church Assets & Leadership

Church Clergy Tax Management & Compliance

# TODAY'S AGENDA

- Why Asset Protection is Critical for Churches
- Legal Structure & Personal Liability Shield
- Insurance Coverage Requirements
- Documentation & Compliance Framework
- Real-World Case Studies
- Implementation Roadmap

# THE ASSET PROTECTION CRISIS

- Church leaders face personal liability for governance failures
- Unincorporated churches: pastors/boards personally liable for ALL debts
- Lawsuits targeting individual board members: increasing trend
- IRS penalties extend to individuals making compensation decisions
- Sexual abuse allegations: churches without proper structure face catastrophic liability
- Property disputes: unprotected assets seized in litigation

# Understanding Personal Liability Exposure

## Unincorporated Church

Pastor & board members are PERSONALLY liable for ALL debts, contracts, and claims

## Incorporated 501(c)(3)

Legal entity is liable, not individuals (with exceptions for negligence)

## Impact

Homes, retirement accounts, personal assets AT RISK without proper structure

# FOUR PILLARS OF ASSET PROTECTION

- **Legal Structure** - Proper incorporation creates liability shield
- **Insurance Coverage** - D&O liability protects against personal claims
- **Documentation** - Minutes & policies prove good governance
- **Compliance** - Regular audits & tax filings demonstrate responsibility

# LEGAL STRUCTURE: INCORPORATION ESSENTIALS

- State incorporation as nonprofit religious corporation (NOT for-profit)
- IRS 501(c)(3) exemption application (Form 1023 or 1023-EZ)
- Formal bylaws adopted and maintained
- Board of Trustees or Directors (minimum 3 unrelated members)
- Annual corporate filings with state
- Separate bank accounts (church vs. personal funds)
- Maintain corporate formalities (meetings, minutes, resolutions)

# Piercing the Corporate Veil: What Destroys Protection

Your incorporation FAILS to protect you if:

## ❌ Mixing Funds

Using church account for personal expenses

## ❌ Ignoring Bylaws

Making decisions without board approval

## ❌ No Minutes

# Insurance Coverage: Protection Layer 2

## Directors & Officers (D&O)

Covers defense costs & settlements for claims against board members

## General Liability

Covers bodily injury, property damage on church premises

## Employment Practices Liability

Covers discrimination, wrongful termination, harassment claims

# INSURANCE COVERAGE REQUIREMENTS CONTINUED

- **Abuse & Molestation Coverage** - CRITICAL: covers allegations of sexual misconduct
- **Property Insurance** - Building, equipment, contents coverage
- **Workers Compensation** - Required in most states for employees
- **Minimum Coverage Levels** - Consult insurance broker for church size & activities

# DOCUMENTATION FRAMEWORK: CREATE PAPER TRAIL

- Board meeting minutes (monthly, distributed to all members)
- Board resolutions on major decisions (compensation, contracts, purchases)
- Conflict of interest policies signed by all board members
- Financial control procedures (written and enforced)
- Bylaws adopted by board (initial & all amendments)
- Personnel policies (hiring, termination, performance evaluation)

# Board Minutes: Your Legal Shield

## ✅ Effective Minutes Include:

- Date, time, location, members present
- Topics discussed
- Decisions made
- Vote counts

## ⚠️ Common Failures:

- Vague descriptions ("discussed finances")
- No action items
- No distribution to board
- Stored improperly

# CONFLICT OF INTEREST POLICY FRAMEWORK

- Board members disclose any financial interest in vendor/contractor decisions
- Conflicted member RECUSES from discussion and vote
- Minutes document the disclosure and recusal
- Annual written certification signed by all board members
- Policy covers immediate family members and entities they control
- Demonstrates good governance to IRS & Attorney General

# Compliance & Audit Trail

## Annual Requirements

- State nonprofit filing
- Tax return (Form 990-N, 990-EZ, or 990)
- Financial statement review

## Recommended Annually

- Independent audit (or review)
- Board governance review
- Control testing & gaps

# Case Study: The Unincorporated Church Disaster

**Situation:** Mid-size church operated informally for 30 years, no incorporation, no board minutes, pastor & treasurer handled all finances.

**The Problem:** Visiting pastor negligently injured child during event. Parents sued for $2M.

**The Outcome:** No corporate shield = personal liability. Pastor's home & retirement seized. Settlement bankrupted the church.

✅ **Solution:** Immediate incorporation would have limited liability to church assets only.

# Case Study: The IRS Compensation Challenge

**Situation:** Church audited for excessive pastor compensation. No board minutes documenting approval process.

**The Problem:** IRS disallowed $50K in "excessive" compensation. Demanded back taxes, penalties, interest on church AND pastor.

**The Outcome:** Total bill: $125K (with penalties/interest). Taxpayers faced personal liability despite corporate status due to lack of documentation.

✅ **Solution:** Detailed board minutes showing fair market value compensation research prevents challenge entirely.

# ASSET PROTECTION IMPLEMENTATION CHECKLIST

- ☐ State incorporation as nonprofit religious corporation
- ☐ IRS 501(c)(3) exemption application filed & approved
- ☐ Bylaws formally adopted by board of directors
- ☐ Board of Trustees (minimum 3 unrelated members) appointed
- ☐ D&O insurance policy obtained & active
- ☐ General liability insurance with minimum $1M coverage
- ☐ Abuse & molestation insurance active

# Asset Protection: 90-Day Implementation Plan

## Days 1-30

- Confirm incorporation status
- Review insurance policies
- Consult church attorney

## Days 31-60

- Obtain D&O insurance
- Document governance gaps
- Draft/update bylaws

# KEY TAKEAWAYS

- Unincorporated churches expose pastors & board to personal liability
- Proper incorporation creates liability shield (IF done correctly)
- Insurance is SECOND layer of protection, not substitute for incorporation
- Documentation proves you're a legitimate 501(c)(3), not a sham entity
- Board member personal assets AT RISK without D&O insurance
- Asset protection requires ongoing compliance, not one-time action

# PROTECT YOUR MINISTRY NOW

DO NOT WAIT FOR A CRISIS - ASSET PROTECTION MUST BE IN PLACE BEFORE THE LAWSUIT

Next: Internal Control Systems Deep Dive

# THANK YOU

SAFEGUARD YOUR MINISTRY'S FINANCIAL FUTURE THROUGH STRATEGIC ASSET PROTECTION

Questions & Discussion Welcome