

The Personal Asset TrustSM

FREQUENTLY ASKED QUESTIONS

Q: I already use protective trusts for beneficiaries, in my current Living Trust or Will document, so what makes the “Personal Asset TrustSM” so different or unique?

A: Many existing document forms do contain special provisions for those beneficiaries who, at the time of drafting, have asset protection issues. Such beneficiaries typically have their inheritance held in a third-party controlled, continuing trust - - such as a lifetime discretionary trust, a spendthrift trust, or a special needs trust. However, under many existing document forms, most beneficiaries receive their inheritance outright and free of trust at some point, either immediately after the trustor is gone or over a certain period of time or at certain ages.

Unfortunately, once assets are distributed out of trust and right to the name of a beneficiary, they are needlessly exposed to potential claims of spouses, divorce, creditors, and lawsuits, and can even cause the loss of needs-based government benefits or imposition of estate taxes when the inheritance is passed down to the next generation. The “Personal Asset TrustSM” is designed to replace what would otherwise be an outright distribution with a beneficiary controlled, asset protection trust (that springs out of the Living Trust or Will).

Even if you already use some type of beneficiary controlled trust as a “default”, instead of an outright distribution, the “Personal Asset TrustSM” contains many unique, advanced technology features. First and foremost, the level of asset protection can self-adjust without going to court, to adapt to changed circumstances and needs of each beneficiary after the trustor dies. There are up to 4 levels of asset protection that can be set based on a beneficiary’s circumstances:

1. For a basic, but greater level of protection than an outright distribution: a friendly individual third-party may be brought in as co-trustee or sole trustee;
2. For the next level of protection: this may be an independent third-party, such as a bank or trust company;
3. For an even higher level of protection: an independent Trust Protector may remove or replace trustees; and,

4. Lastly, for the highest level of asset protection: the Trust Protector may modify or remove various trustee powers (and re-grant them later) and even change the trust into a lifetime, spendthrift, or special needs trust.

Whether another co-trustee, sole trustee or Trust Protector is brought in, the beneficiary may still indirectly control his or her inheritance while benefitting from significant asset protection. This “20/20 hindsight” flexibility, to adapt the level of protection that’s needed after the trustor is gone, is unique to the “Personal Asset TrustSM” and is not found in virtually any other trust form.

Additionally, the “Personal Asset TrustSM” also contains certain unique income tax features. When income is held and taxed in a trust, either inadvertently because distributions were not timely made or intentionally to take advantage of higher asset protection, there are negative consequences. First, a trust pays income taxes at much higher rates than an individual beneficiary. Also, you can’t utilize the beneficiary’s higher AMT exemption, apply the beneficiary’s deductions or qualify for the beneficiary’s capital gains exclusion upon the sale of a personal residence. A “Personal Asset TrustSM” has been specially designed to become, when needed, a grantor trust as to the beneficiary so that accumulated income can fully take advantage of taxation as if the beneficiary had directly owned the trust assets.

In addition, a special formula general power of appointment given to the beneficiary can allow a step-up in capital gains basis of trust assets upon the beneficiary’s death, in a way that maximizes capital gains reduction, without eliminating capital losses or causing unnecessary state or federal estate taxes. Such a highly sophisticated provision, again, is not found in virtually any other trust document form.

Q: Is this “Personal Asset TrustSM” something you just invented or is it proven and tested to work?

A: The “Personal Asset TrustSM” was pioneered in 2002 by the Law Firm of Kavesh, Minor & Otis (of which Ultimate Estate Planner President, Philip Kavesh, is a managing principal). However, it wasn’t invented from scratch. It’s based upon over 100 years of asset protection law. The Law Firm of Kavesh, Minor & Otis merely simplified, adapted and imported the technology of tested and proven asset protection trusts into the Living Trust. The “Personal Asset TrustSM” is the result of many years and thousands of hours of research and development, as well as thousands of fees paid to top asset protection and tax experts who have reviewed it. And, in the 15 years since its creation, it has been proven and tested to work.

Q: Can the “Personal Asset TrustSM” be easily added to my existing document creation system and forms?

A: Yes! The “Personal Asset TrustSM” is designed as a free-standing module in Microsoft Word that you can plug into any trust drafting system or form, with very little customization

required. In order to be consistent with your existing documents and state laws, you will need to make a few changes that should take you less than 2 to 3 hours - - items like the use of terminology (e.g. Trustor, Special Co-Trustee, and Trust Protector) and references to California Law (which we highlight so you can easily identify them). After these few changes, you will need to find an easy way to produce the final form for your clients, virtually cookie-cutter, either as an Amendment to your existing trusts or as a separate section of a new trust.

Q: I find it hard to sell asset protection to my clients and prospects. Why will they want to get the “Personal Asset TrustSM”?

A: When asset protection is presented to clients, the discussion often devolves into the details and complexities of establishing and administering additional entities. Additionally, it usually includes corresponding loss of complete control over and access to assets during their lifetime. That is not the case with “Personal Asset TrustSM”. The “Personal Asset TrustSM” is a *testamentary* asset protection device, intended to afford the clients’ *beneficiaries* additional safeguards against spouses, divorce, creditors, lawsuits, loss of government benefits, etc. without imposing on the beneficiaries any significant loss of control or access and use. The perfect metaphor for the “Personal Asset TrustSM” is to think of it like the safety features - - such as seat belts, air bags, and antilock brakes - - now included with virtually every single car you can buy. It is one of the easiest, slam-dunk sales that you will ever make! If you think about why most people get their estate planning done these days anyways, it is usually due to concerns about their beneficiaries receiving their inheritance and not losing it to all of these potential third-party threats!

For more information about how to market, explain and sell “Personal Asset TrustSM” to your clients, see the Marketing Training that comes with The Personal Asset TrustSM Package.

Q: At what price can I successfully sell “Personal Asset TrustSM” to my clients and prospects?

A: We, and others who have licensed the “Personal Asset TrustSM” from us, have for years sold it as an amendment or upgrade to existing clients for anywhere between \$495 and \$2,500 and to brand new clients for as much as \$4,995. By adding the “Personal Asset TrustSM” to your existing document forms, you will be able to substantiate a significant increase in your new client pricing structure. The “Personal Asset TrustSM” has generated millions of revenue for the Law Firm of Kavesh, Minor & Otis alone, as well as incredible cash flow for other licensees. When you think of the “Personal Asset TrustSM” in terms of an investment, the “ROI” is huge! Just a few trust amendments or one new trust sale will return your cost and the rest is pure profit!

Q: I already have your previous “Personal Asset TrustSM” form. What’s so different about this updated version?

A: The 2017 update to the “Personal Asset TrustSM” includes:

- The grantor trust provisions have been changed to significantly reduce any potential asset protection exposure. The old provision used a beneficiary withdrawal power over principal, which in some states might cause a sizeable window of opportunity for third-party attack. The new withdrawal power is instead over taxable income, greatly reducing and, in most states, virtually eliminating any third-party access, while maintaining favorable taxation of accumulated income. This new provision was the result of many hours of study and research, backed up by significant statutory and case authority.
- There is an addition of a highly developed, intricate formula general power of appointment to obtain capital gains basis step-up at the beneficiary’s death.
- There are now greatly enhanced Trust Protector powers to modify the trust and increase (or decrease) the asset protection level, as warranted.

Add the Personal Asset TrustSM to your practice TODAY!

To place your order, call 1.866.754.6477.