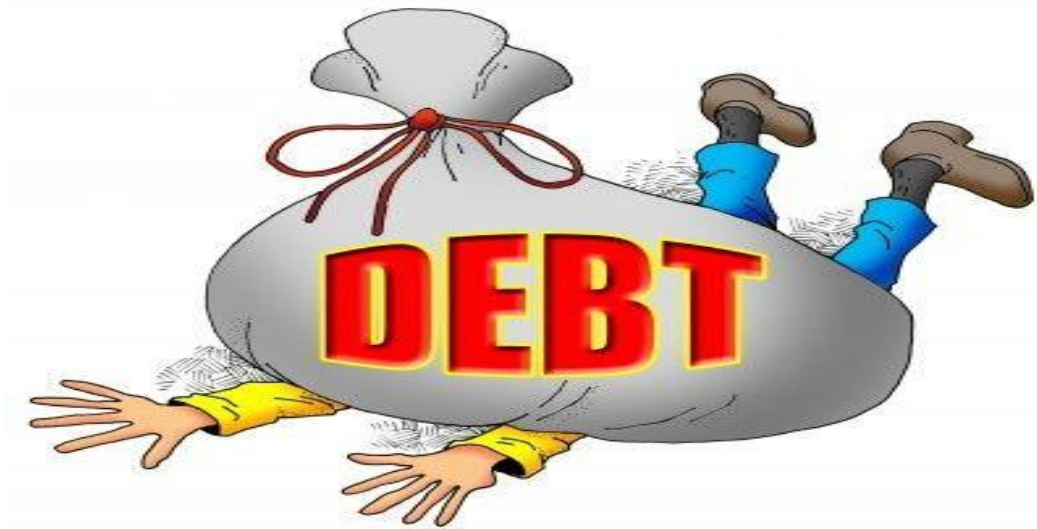


“प्रज्ञान”

Means of Wisdom

ASSET PROTECTION TRUST



Ringfence your Assets - Create Asset Protection Trust

An asset protection trust is a vehicle created to preserve wealth by insulating assets against unanticipated risks. The Settlor settles the trust beyond the reach of potential creditors thereby insulating assets which would otherwise be at risk. Banks will insist the entrepreneurs to give personal guarantee while availing a loan. In case of a bad business scenario the risk of business losses can translate to personal assets.

Parents can also use the trust route to avoid their child parting with assets due to a bad marriage. The ownership of the asset lies with the trust, not the child - returns from the assets can be in the child's name. This ensures the child loses just a part of the returns, which is much lower than the value of the assets.

Also, with divorce cases on the rise, in many cases estate planners recommend that a person forms a trust as soon as he/she files for divorce - the aim is to protect their wealth for their children, who are made beneficiaries.

Why set an Asset Protection Trust (APT)?



- Set up in an attempt to avoid or mitigate the effects of taxation, divorce and bankruptcy on the beneficiary.
- Fulfills the goal of asset protection planning, i.e. to insulate assets from claims of creditors without concealment or tax evasion.
- Any form of trust which provides for funds to be held on a discretionary basis.
- The asset protection trust is a trust that splits the beneficial enjoyment of trust assets from their legal ownership.
- Frequently proscribed or limited in their effects by governments and the courts.
- The beneficiaries of a trust are the beneficial owners of equitable interests in the trust assets, but they do not hold legal title to the assets.
- Protection of business assets and accounts receivable from potential claims.
- You wish to ensure that your creditors will not be able to lay a claim on some of your assets in the event you face financial difficulties or business risks.
- If you have stood as Guarantor for a Loan and the loan goes bad your personal assets can be attached to pay for the loan. Do you want to avoid such a situation?
- You wish to protect some of your existing assets in the event your investment fails in a High-Risk Investment.
- You do not wish your beneficiaries to be reckless in managing your hard-earned assets after you have passed away.
- You wish to prevent your hard-earned assets from being squandered by your spendthrift beneficiaries.

When can APT be challenged?



- Is in turn a beneficiary under its provisions.
- Settlor is under financial risk.
- Settlor benefits (whether permitted or not) from the trust.
- If bankruptcy or divorce occurs to the Settlor soon after the establishment of the trust.
- Trust is a revocable Trust.
- Trust is set up with fraudulent intention.

Dos and Don'ts

- Asset Protection Trusts must be irrevocable (a revocable trust will not provide asset protection because and to the extent of the settlor's power to revoke)
- An irrevocable trust is the only significant asset protection device for avoiding frivolous lawsuits, avoiding the probate process, and avoiding unexpected challenges in court.
- The settlor should be the beneficiary.
- Prudent to have a Corporate Trustee.
- The settlor should not act as a Trustee.



DOs



DON'Ts

How can we help you?

One size fit for all, does not work, as everybody's needs, requirements, wealth and family compositions are different:

- Our team of experts will meet you and understand your case and situation.
- We will then customize an estate plan that will be as per your requirements.
- Our counsellors will explain you the pros and cons of the plan.
- Once you are satisfied, we will help you to structure the plan.
- Post that we will work on the related documents to execute the relevant documentation and implement the plan.



Disclaimer: This knowledge series is not intended to hurt the sentiments of communities or individuals, living or dead that appear in it. Our intention has been, is and will always be to constantly add value to our valuable customers in some way or the other while we try to ensure that the information, we provide is correct, mistakes do occur, and we cannot guarantee the accuracy of our material. Terentia makes no warranties or representations as to the accuracy of information presented in the article/s. Terentia in the process of creating, producing, or delivering this article shall not be liable for any direct, incidental, consequential, indirect, special, exemplary, punitive, or other damages arising out of the use, or any errors or omissions or in the content of the article.