

PERSONAL ASSET TRUSTSM

FAQs

(Frequently Asked Questions - - and Answers!)

Q. What is the purpose of the Personal Asset Trust?

Your Personal Asset Trust ("PAT") will protect you from creditors' claims, automobile accident claims, hospital bill claims, divorce claims, the U.S. Bankruptcy Court, and even from an IRS lien. If a supplemental needs trust is necessary to protect a beneficiary's eligibility for government benefits, the distribution to the Personal Asset Trust can be adapted to make sure the distribution can benefit that beneficiary in the most effective way possible. An extra bonus is that the inherited funds are **not** included in your taxable estate for estate tax purposes at the time of your death. The PAT does all of this while allowing you to operate your own PAT as the Trustee. You are allowed to make any and all decisions regarding the PAT Trust, and you answer to no one else.

Q. What are the funds in my Personal Asset Trust? How should the funds be invested?

Your Personal Asset Trust is funded with distribution(s) that were made to you from the trust that is being administered. You can use the funds in your PAT however you wish and can invest them accordingly. It is strongly suggested that if you purchase anything of value (other than a car), it be held in the name of your PAT, so that it enjoys the above-described asset protection. This would apply to real estate, stocks, bonds, mutual funds, and bank accounts.

Q. Who is the Trustee of my Personal Asset Trust?

You are the sole Trustee of your own PAT.

Q. If I become incapacitated or die and there are assets in my Personal Asset Trust, who is the Successor Trustee of my Trust?

Unless you otherwise designate by a separate document, the Trustee of the original Revocable Trust will be the Successor Trustee of your PAT. We encourage you to think this matter over carefully, and if you wish someone else to act as Successor Trustee of your PAT, please advise our office immediately, and we will prepare the appropriate document for you to designate a Successor Trustee of your PAT.



Q. What is the Tax Identification Number of my Trust? Why can't I use my Social Security number?

It is necessary to obtain EIN (Employer Identification Number) for your Personal Asset Trust. Since your PAT is an entity (an irrevocable trust) and not a person, you cannot use your own Social Security number when filing tax returns on behalf of your PAT. Further, the funds held in your PAT did not originate with you, and so a separate tax identification number is required.

Q. Do I have to file a separate income tax return for my Personal Asset Trust?

Yes, your PAT has a separate Tax Identification Number, and a separate tax return (Form 1041) is required. However, any income or interest earned by the funds held in your PAT will "pass through" your PAT and will be reported to you, individually, to be included on your personal tax return (IRS 1040 and State equivalent).

Q. Who is the primary beneficiary of my Trust?

You are the primary beneficiary of your PAT.

Q. What happens to the funds in my Personal Asset Trust upon my death?

Upon your passing, any assets remaining in your Personal Asset Trust will be distributed pursuant to the terms relating to your distribution in the original trust.

Q. Can I add my own funds to my Personal Asset Trust?

No, you cannot co-mingle your (or any other family member's) funds with the funds held in your Personal Asset Trust. Doing so will void the asset protection features of your PAT.

Q. Can I purchase real estate with the funds in my Personal Asset Trust?

Yes, you can; however, the title (or the percentage of your interest) to the real estate should be held in the name of your PAT, so that it enjoys the above-described asset protection. If you sell the real estate, the proceeds should be reinvested and held in the name of your PAT.

Q. What should I do if I am faced with a lawsuit, creditor action, or divorce?

Please note that the asset protection features of the Trust require that you take affirmative steps in order to "turn on" the asset protection. **It will not occur automatically.** This requires the use of one or more "toggle switches" contained in the body of the original Trust with the use of Special Co-Trustees and a "Trust Protector". It gets quite complicated and will require the assistance of our office or another law office that concentrates on estate planning and/or asset protection. Failure to use the "toggle switches" in a timely fashion (as soon as you learn of any possible financial danger) may cause a loss of the asset protection features of your PAT.

