



The International Asset Protection Trust

Your primary tool for international diversification,
asset protection, estate planning and financial privacy

Trust Training Module One

An Introduction to the International Asset Protection Trust

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INTRODUCTION

Welcome to the world of the Alliance Asset Management (or AAMI) International Asset Protection Trust. That may sound like a mouthful, but it is important, now that you have established this relationship, that you understand the scope and power that the trust can provide for you and for your family.

You are in good hands with the AAMI trust, working with an organization that, at the time of this program has approximately 154,000 clients in 142 countries around the world. This makes AAMI one of the largest, of not THE largest, trust organizations in the world. AAMI has evolved from a company original created in 1992 called Prosper International Limited, which was usually referred to as PIL. After 14 years, the company now has a number of different “gateways” through which you can arrange your relationship to the trust and the other entities and products that are available through AAMI.

Whether you purchase your trust through AAMI directly, through PIL, through FOREX 411, through West Redding or through another entity, you are essentially purchasing the same outstanding trust product as offered through AAMI, so the information in this program generally applies to all clients worldwide, regardless of how you may have accessed the trust product.

In this program, we will discuss all the key elements of your relationship to the trust. The program is broken down into three modules. You are reading and/or listening to Module One right now. This first module is designed to provide you with a general overview of trusts with a basic structure for their use. Module Two involves trust history, legal and tax theory regarding trusts, as well as a detailed glossary of international and legal terms and acronyms. Module Three of the program will provide you with more practical and specific information on how you can use the AAMI international asset protection trust to expand your international horizons.

AN EASY PATH TO AN OFFSHORE PROTECTIVE TRUST

It is now practical for many investors – even with relatively modest portfolios – to have the safety and tax savings of an offshore protective trust.

An offshore protective trust has long been the most powerful of all tools for safeguarding assets from lawsuits and taxes. The trust lets you export the legal ownership of your valuable assets to a country where taxes are low and where the litigation explosion doesn't reach.

With such a trust, you stay home, where you're comfortable; you have full access to investment markets in the U.S. or any other country you choose; but your wealth becomes a legal “resident” of a country where wealth is safe.

The advantages are enormous. But until now high legal costs and administrative expenses meant that only the very wealthy could have those advantages.

This program will explain the basic operation of a trust, how an offshore protective trust works on a practical level, and how it safeguards your wealth.

TRUSTS

There are three or four types of participants in a trust:

- The *Grantor* (or *Settlor*) – you – who sets up the trust, using it to shift the legal ownership of investment and business assets.
- The *Beneficiaries* are the people who will benefit from the activities of the trust. You can name anyone, including yourself, as a Beneficiary.
- The *Trustee* is a qualified institution that assumes legal ownership of those assets. In doing so, it takes on a legally enforceable duty to protect the assets and to use them for the Beneficiaries you've named.
- The *Protector* – an optional fourth participant that has the power to monitor the Trustee, to assure that it doesn't lose sight of the Grantor's intentions in establishing the trust. The Grantor might name his attorney or a trusted friend or relative as Protector, or he might keep the job for himself.

A trust usually is governed by a written Trust Agreement (also called a trust indenture or a declaration of trust).

The Trust Agreement defines the powers and duties of the Trustee, the rights of the Grantor and the Beneficiaries, and the powers of the Protector.

OFFSHORE TRUST CREATION

The grantor or settlor creates the trust, transferring title to his assets, to the trust to be administered according to the trust declaration by the trustees for the benefit of the named beneficiaries. Often this means establishing trustees (the grantor usually may not be one), not located in the home country, including at least one independent managing trustee (or trustee company) in a foreign country. The trust declaration can allow the grantor to replace the foreign trustee at any time with another nominee, and may also require the grantor's prior approval of investments or distributions. Beneficiaries can vary according to the settlor's estate planning objectives, and the grantor may be a beneficiary, but usually is not the primary one. There are some pretty good reasons why you might not wish to choose to be a direct beneficiary of the foreign trust.

Trust law often allows a non-national grantor to receive income and benefits from the trust, while maintaining effective control over the investment and distribution of the trust principal. Many jurisdictions also permit appointment of a local "trust protector" who, as the title indicates, oversees the operation of the trust to insure its objectives are met and the law is followed.

INTERNATIONAL OR “OFFSHORE” PROTECTIVE TRUST

What makes a trust *offshore* is its location. It is administered outside the home country of the individual creating the relationship to the trust. Its Trustee is located outside the home country, and its Trust Agreement invokes the laws of a country other than the U.S.

An offshore *protective* trust is governed by a Trust Agreement designed to discourage litigants and tax collectors.

ADVANTAGES OF THE INTERNATIONAL ASSET PROTECTION TRUST

There is a vast array of potential advantages to creating an association with an international asset protection trust including the following:

- **Asset Protection and Safety:** Keeping assets in an international trust can provide you a financial reserve should an emergency or disaster occur in your domestic financial life.
- **Protection against judgment:** In a lawsuit-happy world it's nice to have reserves that can't be seized or attached by a court or a tax authority.
- **Confidentiality:** Because it is a private contract, a legal agreement, and is no one's business but yours, only those in the trustee's position, and whomever else you wish to inform will even know of the trust's existence. The trustee cannot divulge any information to anyone other than you! The trust is created in a jurisdiction where financial and personal privacy are not just words, but are actually a part of the law with stiff penalties, including possible prison terms, for anyone disclosing that private information.
- **Estate Planning/Ease of transfer to heirs:** Wills, living trusts, and domestic trusts invariably pay taxes and probate, especially when assets are transferred. An international trust does not! (You should consult your tax advisor for current information and advice.)
- **Faster accumulation of wealth:** Trusts can own companies, have bank accounts, own portfolios, hold trading accounts, accumulate commissions, etc., and have tax advantages!
- **Access to higher yielding business and investment opportunities in the global market place.**
- **Personal and financial privacy from the prying eyes of governments, creditors, identity thieves and others who could take advantage of you with your private information.**
- **Possible tax savings, avoidance and deferral:** Save, avoid and defer many taxes in many ways. Any asset can be designated trust property. If the trust is in another jurisdiction, those assets can earn interest, or otherwise increase in value, without being subject to domestic taxes. (Consult your tax advisor for current information and advice.)

LAWSUIT PROTECTION

The U.S. has 5% of the world's population and 96% of its lawsuits. We graduate more and more lawyers every year, as legal education is a growth business. And they've got to eat too, of course, which is why they must take money from you. They are in the business to make money. Of course, this is done in exchange for the service of rendering legal advice.

You have about a one-in-ten chance of being involved in a lawsuit each year. This statistic is troublesome. We are in the midst of a litigation explosion that is having a profound effect on our country. This explosion is causing some to run for cover or take action to protect ourselves because of a perceived lack of control over the process. It has been said that the function of lawyers is to sue. They have no other purpose. And you can be sued for just about any reason. If the population of lawyers continues to grow, and the function of lawyers is to sue, it makes logical sense that lawsuits will continue to grow. No wonder we have a litigation explosion.

An offshore protective trust insulates your assets from predatory lawsuits. A lawsuit might be filed against you because of a business decision, because you have inadvertently violated a law you didn't know existed, because you knowingly or unknowingly insulted someone, because someone had an accident on your property, or because someone simply hopes to get a portion of your wealth by filing a nuisance suit based on an imaginary grievance.

An offshore protective trust protects against predatory lawsuits by erecting stone walls that block potential attackers. Those walls are built out of the provisions of the Trust Agreement, are reinforced by the laws of the country where the trust is established, and are cemented by the way the trust is administered.

Suppose, for example, you have transferred most of your wealth to an offshore protective trust. Years later you criticize someone's haircut, and he sues you for \$10 million. If he wins, can he collect the judgment out of the assets of your trust?

Your judgment creditor (the person who won the lawsuit) would look first for your personal assets. Anything visible that you own personally in the U.S. would be easy for him to find and take. And a U.S. court could order you to testify, under oath, about all your personal assets, including foreign investments – and order you to bring them home to satisfy the judgment.

If your personal assets don't cover the entire judgment, your judgment creditor would look for a way to use the U.S. court to break into your offshore protective trust.

HERE'S WHERE EACH POSSIBLE LINE OF ATTACK BY A JUDGMENT CREDITOR EXISTS AND WHERE THAT ATTACK WOULD LIKELY END.

ATTACK THE GRANTOR (you): A U.S. court might command you to order your offshore Trustee to return the assets to the U.S. where they could be seized by your judgment creditor. But the Trust Agreement makes your offshore protective trust *irrevocable* – so that you can't undo it, even if you send a letter to the Trustee "revoking" the trust. Abiding by the terms of the Trust Agreement, the Trustee would be duty bound to ignore the letter.

ATTACK THE BENEFICIARIES: If you as a Beneficiary had a fixed right to, say, one half of the trust's income or one third of the trust's capital, a U.S. court could compel you to assign that right to your judgment creditor. (The same thing might be done to any other Beneficiary.)

But an offshore protective trust is *discretionary* – meaning that the Trustee decides which Beneficiary gets what and when he gets it. Thus you as a Beneficiary don't own anything you can be forced to assign to someone else. And, if a court orders you to forward your trust income to a judgment creditor, the trustee can suspend payments to you.

ATTACK THE PROTECTOR: Because an offshore protective trust gives the Trustee so much discretionary authority, it also gives extensive monitoring powers to the Protector, including the power to fire the trustee and replace it with another qualified institution.

A U.S. court might order the Protector to replace the Trustee with someone located in the U.S. To control this risk, the Trust Agreement includes an *anti-duress clause*, which makes the Protector's powers effective only when he is acting of his own free will. Thus, if the Trustee sees that the Protector has acted under a court order – or reasonably suspects this to be the case, the Trustee has a duty not to follow the Protector's instructions.

ATTACK THE ASSETS: A runaway U.S. court might be willing simply to grab the trust's assets that are visible inside the U.S. This doesn't prevent the trust from owning U.S. investments. The Trustee simply owns them through a foreign bank custodian that will be the owner of record in the U.S.

ATTACK THE TRUSTEE: Since it is foreign, the Trustee, in principle, is not subject to the jurisdiction of a U.S. court. However, a U.S. court might order a foreign Trustee to return your trust's assets to the U.S. threatening to seize the Trustee's assets if it doesn't comply. So the trust should use a Trustee with no office in the U.S. – so that a U.S. court has no way to pressure the Trustee.

ATTACKING IN THE TRUST'S COUNTRY: Having failed to seize the trust's assets with the help of U.S. courts, your judgment creditor might seek the help of the courts in the country where your trust is located.

This would require a substantial investment on his part. He would have to pay for legal counsel in the foreign country. (And, most likely, your trust will be in a country where contingency fees are prohibited, and where a losing plaintiff must pay the winner's legal costs.) And he would need help and referrals from his U.S. lawyers, who probably have little experience litigating in the foreign country. Furthermore, attorneys attempting to bring an action into a foreign jurisdiction will generally have to hire local counsel and post a substantial bond to the government of that country in order to bring the action.

But what happens if he does take the step and pursues you offshore?

Even if a court in the trust country would enforce a U.S. judgment against you, it won't reach into your trust. In its eyes, you don't own the trust assets; the trust does.

So, as you can see, there are serious deterrents for domestic attorneys to bring litigation actions into foreign jurisdictions, particularly in those which have privacy and anti-litigation legislation in place.

FRAUDULENT CONVEYANCE

Your judgment creditor has only one hope: to prove to the foreign court that your transfer of assets to the trust was a “fraudulent conveyance”, a legal concept that requires an explanation!

No country’s laws allow you to use a trust to escape your *existing* debts. If you transfer assets to avoid an existing debt (or one that reasonably can be foreseen), a court may decide that the assets must be made available to your creditor.

The precise rules differ from country to country. But you can assume that if you set up an offshore trust today, anyone to whom you *already* owe a debt could have the trust set aside, provided he acts promptly enough. But if you set up an offshore protective trust and *later* become involved in an accident or controversy, the trust will be safe from any resulting debts.

This means the sooner you establish an offshore protective trust, the better. It protects against the hazards of the future, not (retroactively) against the problems of the past.

Because, in our example, your trust was set up years before your unkind and insensitive haircut remark, the judgment creditor couldn’t attack the trust under a fraudulent conveyance rule.

WHAT THE TRUST CAN PROTECT

Trust assets held outside the U.S. are protected from government seizures, simply and completely. No U.S. government agency can seize the assets, because it can’t get to them, not in the way it can get to your house or to your local bank account.

An offshore protective trust can safeguard almost anything you own – including stocks, bonds, gold, silver, foreign currencies and insurance policies. If you have a managed investment account, you can transfer it to the trust and keep the same investment manager.

If you operate a business through a corporation or partnership, transfer the shares or your limited partnership interest to the trust.

If you own investment real estate, transfer it to a limited partnership, with yourself as the general partner. Then transfer the limited partnership interest to the trust.

In any such case, the transfer leaves you with the day-to-day management and control of the underlying assets.

INCOME TAX SAVINGS

During your lifetime, the assets of an offshore protective trust are treated – for U.S. income tax purposes – as though you still own them.

So when you put assets into the trust, there is no capital gains tax – even if the assets have appreciated. And there is no income tax when you receive a distribution from the trust. Instead, as the Grantor, you pay tax on the trust’s income each year, and claim deductions for trust expenses, just as though you still owned the trust’s investments.

Even though you'll still have to pay income tax on trust investments, the right trustee should be able to reduce the bill substantially. Through a strategy of tax deferral, an astute trustee can continually postpone the day when your profits become taxable.

Of course, you can do this on your own – through pension plans, insurance policies, selected mutual funds, and other devices. But a knowledgeable Trustee may be able to do a better job – using his full-time expertise in tax planning, hiring professional advice, and relying on ways of handling investments that aren't easily available to you in the U.S.

AFTER YOUR LIFETIME

After your lifetime, additional tax advantages come automatically.

The trust itself is foreign, and so is no more subject to U.S. tax than any other foreigner. And since the trust is discretionary, no Beneficiary "owns" any particular share of the trust's income. Thus the trust can accumulate and compound investment income without anyone paying tax on it.

Beneficiaries are taxed only when they receive a distribution and then are taxed only on the portion of the distribution that represents income the trust earned after your lifetime. The rest of the money they receive is tax-free distribution of capital. (A Beneficiary who isn't a U.S. citizen or resident has no U.S. tax liability for trust distributions.)

REPORTING

The Trustee, being foreign, files no reports with the IRS. But during your lifetime, you must report transfers to an offshore trust, and you must file a statement of the trust's income each year.

The reports are comparatively simple, and they don't add to your tax bill. But they compromise the privacy you may want for a trust. On the other hand, reporting the trust's income and deductions on your personal tax return makes your trust completely non-controversial. It lets you have the safety of an offshore protective trust without inviting conflict with the tax collector.

Despite the reporting requirements, the trust still can be more private than most investments – since you can choose a country where privacy is respected. In the U.S. the trust's affairs are recorded only in the reports you file with the IRS – which a potential litigant is legally barred from seeing, unless you waive confidentiality. And, if privacy is especially important, there are ways for the Trustee to manage investments so that you have to report only the most summary information.

TAXES ON TRUST ASSETS

To understand how trust assets are taxed [in the US], it is first necessary to know what a grantor trust is and how it is defined.

GRANTOR TRUSTS

If you (the grantor) retain the right to control or benefit from a trust in certain ways, you are treated as the owner of everything in the trust—and you must include the trust's income and deductions on your own tax return.

Generally, a trust you create is a grantor trust if any of the following applies:

- Income or principal to grantor. You or your spouse may receive distributions from the trust.
- Control of distributions. You can require the trustee to make distributions to someone you specify.
- Benefit of administration. You can require the trustee to administer investments in certain ways that benefit you (for example, you can repurchase trust assets at fair market value).
- Life insurance. The trust may purchase insurance on your life.

In addition, if you establish an offshore trust with one or more U.S. beneficiaries, it is a grantor trust—even if you retain no rights or powers whatsoever.

There are no income tax consequences to any transaction between you and your own grantor trust.

You can give property of any kind to it, sell appreciated property to it, lend money to it, borrow money from it, rent property to or from it -- all with no effect on anyone's taxable income.

For income tax purposes you simply are moving assets from one pocket to another.

Grantor trusts can be important for estate planning or for asset protection. And while there are no tax consequences on transactions as just described, these trusts are virtually useless for income tax purposes.

OFFSHORE GRANTOR TRUST RULE

If your offshore trust is not set up carefully, it still might be considered a grantor trust in the eyes of your home country's tax laws. It treats you as the owner of trust assets even if you retain no interest in the trust at all. This in turn means you must declare all of the trust's income and deductions on your, tax return.

The offshore grantor trust rule tests whether or not your offshore trust is technically a grantor trust. Here is how the rule works:

- If you are a U.S. citizen or resident, and
- You transfer property to an offshore trust (except at your death, or in a sale at full value), and if the trust has any U.S. beneficiaries ... then you will be taxed on whatever income the trust earns on the property you transferred to the offshore trust.

Your tax obligation doesn't depend on your financial interest in the trust. Even if you never receive income from the trust, have no right to receive anything from it, and have

no power to influence who does receive benefits or how the trust is managed, you still pay U.S. tax on the trust's income.

If the trust keeps the property you gave it, your taxable income includes the interest, dividends, rents, royalties, etc. from the property itself and from reinvesting the income from reinvesting the proceeds of the sale.

THE UPSIDE

The offshore grantor trust rule applies to your trust for as long as you live. This means you have to include the trust's income and deductions in your own tax return year after year.

Still the trust can result in substantial income tax savings for you. The general tax strategy is for the trust to defer recognition of its taxable income during your lifetime, using some of the same techniques you would use for your own portfolio.

Then, after your lifetime, the trust being foreign can recognize income without anyone paying U.S. tax. A strategy of deferral won't prevent the trust from making good investments, and it won't stop the trustee from making cash distributions to you or other beneficiaries. Deferral simply keeps profits off your tax return.

Your offshore trust's income is taxable to you. Deductions for trust expenses or losses ***also will flow to you.***

Some of the tax information provided above may be disturbing to those who intended to use the trust for the purposes of tax savings. It is our intention in this program to provide accurate information.

However, there are a number of ways to structure a foreign trust and the following information will provide for you some creative ideas on where you may be able to reduce tax liability, and will certainly increase your personal and financial privacy as it relates to the trust.

THE FOREIGN GRANTOR TRUST

There is a preferred alternative to you serving in the Settlor or Grantor position in the trust, and this alternative is certainly recommended, particularly to U.S. residents. That is the Foreign Grantor option. This option can be established upon the inception of the trust or can be added to any currently existing trust.

The foreign grantor trust (or FGT) option allows for an attorney outside your home country to serve as the Grantor/Settlor of the trust, thereby extending an arm's length relationship between you and that trust structure.

Research will uncover varying opinions regarding the foreign grantor trust, but at minimum it would appear that this option reduces or eliminates any reporting requirements with regard to the relationship to the trust. There are opinions that indicate also that this option may allow for a non-taxable distribution to be received by the beneficiaries of the trust, however, before starting your "tax-free" celebration, it would be wise to seek out the counsel of a qualified tax advisor in your jurisdiction.

Again, it is important to keep in mind, consistent with the Legal Disclaimer at the beginning of this program that everyone should pay all taxes for which they may be liable.

ESTATE PLANNING

An offshore protective trust is a long-term arrangement. It protects wealth for your own personal financial security. Then, anything you don't use up during your own lifetime is protected for the other Beneficiaries you have named.

The trust should allow you to appoint someone to be the Protector after you, because the Protector's role is so important. And you should have the power to split the trust into sections, making a different person the Protector of each section.

GIFT AND ESTATE TAX

You can set up the trust so that your transfers to it are free of gift tax. If you do that, the value of the Trust will be included in your taxable estate. Thus, the trust would neither increase nor decrease the total bill for gift and estate tax. This is the simplest approach.

Alternatively, you can set up the trust, or part of it, so that your transfers to it are potentially subject to gift tax. That would move the trust out of your taxable estate, opening up opportunities for reducing the total bill for gift and estate tax.

Either way, the trust will never be in the taxable estate of anyone but you, since, with a discretionary trust, no Beneficiary has a fixed claim on the trust that would add to the taxable value of his estate.

The trust provides many advantages during your lifetime. But it is even more powerful for those who follow you.

FINANCIAL PRIVACY

The USA Patriot Act, the various "wars" on drugs, money laundering and terrorism are moving quickly toward eliminating any personal and financial privacy you have left. Due to the private and confidential nature of the international asset protection trust, there is no disclosure on the part of the trustees or the trust company to any outside authority of the relationship you may have to the trust.

USING AN OFFSHORE TRUST FOR INTERNATIONAL INVESTMENT

An offshore trust can also be used for international investment activity; your foreign trustee handles the investments and paper work while you make long distance investment suggestions. In this way, you can take advantage of the world's best investment opportunities, without worrying about borders or conflicting laws. A foreign trust with a lawyer or trust company as trustee in the offshore country is an excellent way to achieve international diversification of your investments. Additionally, the trust can provide privacy, confidentiality, and reduced domestic reporting requirements in your home country (since the trust, not you, is the legal owner of the assets); avoidance of domestic taxes and probate in case of death; increased flexibility in conducting affairs in

case of disability, in transferring assets, international investing, or avoiding domestic professional liability insurance or even a prenuptial agreement, offering strong protection of your assets for your heirs and their inheritance.

GLOBAL DIVERSIFICATION OF INVESTMENTS

The international asset protection trust is an ideal mechanism to expand your global portfolio. Some agencies of certain governments, for example, the Securities Exchange Commission (SEC) in the United States, make it very difficult for foreign investment firms to offer an investment to individuals. Therefore, many high-yielding investments around the world are unavailable to individual residents of certain countries. However, there is generally no restriction for an international entity such as a trust to participate in these investments.

FOREIGN HOLDING

For full protection, every trust asset that can be held outside your home country should be held that way. Cash, securities, and precious metals are the easiest to handle.

Even U.S. stocks, bonds, and mutual funds can be held outside the U.S. The trustee can buy and hold them through a foreign bank custodian – so that the foreign bank, not the trust, is the owner of record in the U.S.

Obviously, you can't literally remove real estate or most business assets from your home country, but you can transfer to the trust the ownership of a corporation or partnership that holds the title to real estate or business assets. Later, if you're attacked by a lawsuit predator, you'll have the option of liquidating the business or the real estate – with the proceeds going to the offshore trust.

Sending the stock or partnership interest to the trust now, rather than later, protects the transfer from any claims from a future creditor that it was a fraudulent conveyance.

PERMANENT PORTFOLIO

You can hold a large part of your Permanent Portfolio in a protective trust. The trust can buy U.S. mutual fund shares for the stock portion, U.S. Treasury bonds for the bond portion, U.S. T-bills or money market funds for the cash portion.

The Trustee may be able to handle the Permanent Portfolio completely – including the occasional re-balancing adjustments. Or you can keep a small quantity of each of the four portions of the portfolio in your own possession at home. When an adjustment is necessary, simply buy and sell using those holdings in whatever quantities are necessary to rebalance the overall portfolio – the total of what the trust holds and what you hold at home.

THE TIME IS NOW

Despite the big advantages of an offshore protective trust, few investors actually have one, no matter how much they want to reduce their tax bill and avoid lawsuits. Until recently, there have been too many obstacles.

Setting up the trust was complicated. It meant long conferences with a lawyer – and studying lengthy, complex legal documents.

And it was expensive. Legal costs might be \$10,000 to \$20,000 or even more. And the Trustee might charge a fee of \$2,000 to \$5,000 just to start the trust.

Then it was expensive to run. The annual Trustee fee might be as high as 1½% of trust assets, even for a multi-million trust, with a minimum annual fee of \$3,000 or so.

Then there was the job of finding the right trustee. Many foreign trustees have little understanding of U.S. tax laws. They can protect and invest trust assets, but the Grantor must deal with the tax bill on his own.

And the whole business was somewhat mysterious. Most of the books and articles about offshore trusts are either highly technical works that are intended for legal and accounting specialists or promotions for hazardous tax-avoidance schemes.

AAMI, through its various agent relationships like PIL, West Redding and FOREX 411 simplify the process and make it very affordable to virtually anyone.

This is the end of Module One of the three-part Trust Training series. Please continue now to Module Two to learn more about Trust History, Legal and Tax Theories.