

# **INTERNATIONAL ASSET PROTECTION PLANNING:**

## **An Introduction To OFFSHORE TRUSTS**

**Presented by:**

**RALPH MINTO, JR.**

**Attorney at Law**

PRESENTED IN  
CONJUNCTION WITH  
AHRENS LAW OFFICES  
and the

PLATINUM STUDY GROUP

# **WHAT IS OFFSHORE PLANNING?**

- **Totally legal - it's on your 1040**
- **Using laws of a jurisdiction other than the U.S.**
- **Planning Ahead ("calm seas")**

# WHAT OFFSHORE PLANNING IS NOT

- **NOT a method to defraud creditors**
- **NOT a method to “hide” assets**
- **NOT a method to evade taxes**
- **NOT illegal or run by “Drug Lords”**
- **NOT difficult to implement**
- **No risk of loss to assets or international investing**

# WHAT DOES IT ACCOMPLISH?

- Reduces your attraction as a target
- Provides incentive for early and reasonable settlement
- Ultimately wins the contest

# THE KEY TO ECONOMIC SUCCESS

The key to success is  
not how much you  
make, but how much  
you keep.

**HOW DOES IT WORK?**

**International Case Study:  
The Bahamas**

# 1. Considered an “arm’s length” transaction

- Usually Irrevocable
- Trustees with total discretion
- Guided by “Letter of Wishes”
- Supervised by Trust Protector
- Can only recover by proving a “fraudulent conveyance”

**2. Action limited to actual creditors with claims existing at the time of transfer who are known to the Trustmaker.**

**3. Creditor has burden of proof.**

4. Action barred 2 years after transfer.

5. Foreign law and judgments not recognized by Bahamian courts, so legal proceedings must be re-initiated in the Bahamas.

6. Hard to establish jurisdiction because Trustmaker is not physically within jurisdiction, nor are his assets (except those owned inside the trust).

7. Creditor suing in Bahamas is considered foreign plaintiff. As such, must make substantial cash deposit with court to cover costs which might be awarded to the successful defendant.

8. No registration, filing, or disclosure for trusts. Stringent confidentiality laws with civil and criminal penalties. Makes gaining enough information to formulate a claim difficult.

9. Usually leads to reasonable out of court settlement, such as for the amount of insurance coverage.

10. If emotional creditor with deep pockets overcomes all of the barriers, will still be barred by the 2 year rule. Or trustees may be fired and replaced, assets migrated, or trust itself migrated to new jurisdiction.

11. If after all of this, a creditor is successful in setting aside the transfer, can only satisfy his own claim, leaving the balance of assets intact within trust.

# Domestic Asset Protection Planning

- Trusts are very similar in structure to foreign asset protection trusts in setup and operation.
- Currently available in Alaska, Delaware and Nevada.
- These states have passed laws that are intended to operate like foreign trust laws.

# COMMON USES

- Many individuals use domestic asset protection trusts in lieu of foreign because of perceived negative implications with foreign trusts.
- Can also be used in conjunction with foreign trust through the use of a springing trust provision.
- Should always be recommended for individual retirement accounts especially for PA residents as IRA's are subject to creditor claims in PA.

# PROBLEMS WITH DOMESTIC ASSET PROTECTION TRUSTS

- There is no United States Supreme Court precedent definitively establishing their credibility.
- Problems exists in determining if the “full faith and credit” clause of United States Constitution is violated by state asset protection trust legislation.
- A greater risk of asset loss than with foreign trusts.

# HYBRID ASSET PROTECTION TRUSTS

- Initially set up both a domestic and foreign asset protection trust. Domestic trust is active and foreign trust is inactive.
- When claim is made against domestic asset protection trust assets are transferred to foreign trust and it is immediately activated.
- More expensive to set up because must have both trusts in place. BUT
- Remember, it's what you keep not what you make!

# Cost Analysis

- **Administrative and set up costs are usually quite small compared to savings obtained if sued.**
- **Asset protection planning is like preventive medicine, the sooner you start the easier the cure.**

# Key Benefits

- Compared with what you have probably heard about asset protection through the use of limited liability companies and limited partnerships.
- Problem with that planning is that creditor is still attached to asset and may stay attached forever.
- Foreign asset protection trusts or domestic foreign trusts absolutely protect assets.
- Take control of your future

# Thanks for Attending

Please Complete the Feedback Form

# INTERNATIONAL ASSET PROTECTION PLANNING:

## An Introduction To **OFFSHORE TRUSTS**

Presented by:

**RALPH MINTO, JR**

*Attorney at Law*

THE END