



Asset Protection Trusts and Agreements

Duncan E. Osborne, Frederick J. Tansill

Download now

[Click here](#) if your download doesn't start automatically

Asset Protection Trusts and Agreements

Duncan E. Osborne, Frederick J. Tansill

Asset Protection Trusts and Agreements Duncan E. Osborne, Frederick J. Tansill

Although it may be legal malpractice not to recommend asset protection planning to clients for whom it is obviously appropriate, asset protection planning often involves difficult fact situations—and difficult clients.

In *Asset Protection Trusts & Agreements*, Frederick J. Tansill and Duncan E. Osborne help practitioners avoid these Seven Deadly Sins of asset protection and many other traps:

Insolvency

Make sure the transferors retain post-transfer solvency, disclose transfers whenever possible, and avoid making transfers immediately before increasing their risk exposure. An attorney who allegedly assists an insolvent client in shielding assets from creditors may find himself or herself a defendant in collateral litigation with creditors. *Banco Popular North America v. Gandi*, 876 A.2d 253 (N.J. 2005) (refusing to dismiss negligence claim alleging that attorney misrepresented the debtor's finances). To help avoid this trap, the book includes a sample Affidavit of Solvency that practitioners can customize to meet particular client needs. Both Tansill and Osborne discuss this topic in detail.

Sloth

Plan ahead: Remember that for Medicaid asset protection purposes any assets added to the trust will be subject to a five-year look-back period. Allow trustees and others to add additional assets to the trust, so that initial assets may be granted protection. Attorney who fails to explain the limits of Medicaid asset protection to clients may get into trouble if a client's trust assets are considered "available assets" for Medicaid qualification purposes.

Collusion

Choose trustees and successor trustees who will exercise their discretion (without considering their personal interests) in order to preserve assets, but be sure to avoid any collusion or advance agreements or "side agreements" between settlors and beneficiaries. Attorney may be subject to liability to creditors for helping debtors conceal assets.

Unlimited Powers

Perhaps permit the Trustee to exercise a limited—not unlimited—power of appointment to provide maximum flexibility in naming contingent beneficiaries. *Ahern v. Thomas*, 248 Conn. 708, 739, 733 A.2d 756, 775 (1999) (trustees did not have a general power to distribute trust principal; the trust was not an available resource).

Rigidity

Allow the trustee flexibility in determining investment strategies, including the ability to invest for capital appreciation or income. Depending on the needs of the beneficiaries, the settlor may wish to choose investments that yield little or no income (if he or she is likely to apply for Medicaid in the future) or substantial income if the trust is designed to cover the beneficiary's living expenses.

One-Size-Fits-All

Determine if the client needs an income-only trust. If so, prohibit the trustee from (1) treating capital gains as income, (2) adjusting between income and principal, or (3) converting principal and income to a unitrust amount. If not, permit the trustee to invest for total return without regard to distinctions between income and principal. The trust may need to prohibit reliance on any state law statute or doctrine that would otherwise give the trustee the power to convert any part of a trust into a total return unitrust.

Disrespecting Elders

Allow distributions to children or others who might then choose to pay privately for an elder's care. For example, the trust might give the settlor a special limited power of appointment over the trust corpus in favor of the settlor's children or other relatives—who may be inclined to provide the settlor with personal, financial, or emotional care and assistance.

 [Download Asset Protection Trusts and Agreements ...pdf](#)

 [Read Online Asset Protection Trusts and Agreements ...pdf](#)

Download and Read Free Online Asset Protection Trusts and Agreements Duncan E. Osborne, Frederick J. Tansill

From reader reviews:

Daniel Hartung:

Do you have favorite book? If you have, what is your favorite's book? Reserve is very important thing for us to be aware of everything in the world. Each publication has different aim or goal; it means that publication has different type. Some people truly feel enjoy to spend their time and energy to read a book. They may be reading whatever they consider because their hobby is usually reading a book. What about the person who don't like reading a book? Sometime, person feel need book once they found difficult problem or maybe exercise. Well, probably you should have this Asset Protection Trusts and Agreements.

Norma Dickerson:

Book is to be different for each and every grade. Book for children right up until adult are different content. As you may know that book is very important for us. The book Asset Protection Trusts and Agreements has been making you to know about other know-how and of course you can take more information. It doesn't matter what advantages for you. The e-book Asset Protection Trusts and Agreements is not only giving you far more new information but also to be your friend when you feel bored. You can spend your own personal spend time to read your e-book. Try to make relationship with all the book Asset Protection Trusts and Agreements. You never truly feel lose out for everything in case you read some books.

Judy Brown:

This Asset Protection Trusts and Agreements is brand new way for you who has curiosity to look for some information as it relief your hunger of information. Getting deeper you on it getting knowledge more you know or perhaps you who still having little digest in reading this Asset Protection Trusts and Agreements can be the light food for yourself because the information inside that book is easy to get by anyone. These books produce itself in the form which is reachable by anyone, yeah I mean in the e-book web form. People who think that in guide form make them feel sleepy even dizzy this reserve is the answer. So you cannot find any in reading a guide especially this one. You can find actually looking for. It should be here for you. So , don't miss the idea! Just read this e-book variety for your better life and also knowledge.

Leesa Banta:

Within this era which is the greater person or who has ability to do something more are more valuable than other. Do you want to become considered one of it? It is just simple method to have that. What you have to do is just spending your time little but quite enough to have a look at some books. Among the books in the top listing in your reading list is Asset Protection Trusts and Agreements. This book and that is qualified as The Hungry Inclines can get you closer in becoming precious person. By looking upward and review this reserve you can get many advantages.

**Download and Read Online Asset Protection Trusts and
Agreements Duncan E. Osborne, Frederick J. Tansill
#XQOYL3IJTW2**

Read Asset Protection Trusts and Agreements by Duncan E. Osborne, Frederick J. Tansill for online ebook

Asset Protection Trusts and Agreements by Duncan E. Osborne, Frederick J. Tansill Free PDF d0wnl0ad, audio books, books to read, good books to read, cheap books, good books, online books, books online, book reviews epub, read books online, books to read online, online library, greatbooks to read, PDF best books to read, top books to read Asset Protection Trusts and Agreements by Duncan E. Osborne, Frederick J. Tansill books to read online.

Online Asset Protection Trusts and Agreements by Duncan E. Osborne, Frederick J. Tansill ebook PDF download

Asset Protection Trusts and Agreements by Duncan E. Osborne, Frederick J. Tansill Doc

Asset Protection Trusts and Agreements by Duncan E. Osborne, Frederick J. Tansill Mobipocket

Asset Protection Trusts and Agreements by Duncan E. Osborne, Frederick J. Tansill EPub