Domestic Asset Protection Trusts ("DAPTs")

A DAPT is an irrevocable self-settled domestic asset protection trust that can offer significant asset protection but is not a cure-all. Most irrevocable trusts are third-party trusts (for example, where a parent creates a trust for the benefit of a descendent). Unlike most irrevocable trusts, the settlor can still be a permissible beneficiary of a DAPT (with certain restrictions); the DAPT can also loan money to the settlor. Of equal importance, a DAPT is a spendthrift trust; it offers protection from the creditors of the beneficiary.

Such trusts have many similarities to a traditional irrevocable trust. DAPTs can hold a wide variety of assets, including cash, securities, limited liability company ("LLC") interests, and more. Generally, settlors should fund DAPTs with long-term need horizon assets. In other words, a DAPT should be funded with assets that the settlor will not need immediate access to or will only need in an emergency. DAPTs can also have many of the same provisions that a more traditional irrevocable trust may have, such as a trust protector or investment adviser.

The reader may have heard of international asset protection trusts ("IAPTs") which are often referred to simply as offshore or international trusts. For those not willing to enter the offshore arena, a DAPT may be a good alternative. Because DAPTs are domestic, they are often simpler and cheaper than IAPTs.

Whether a DAPT is right for you might be a good conversation to have with your legal team.