



“**WEALTH GUARD**”™

Asset Protection Planning for Canadians

ABBREVIATED VERSION

Contact us at invest@bayshore-international.com or 1-(888)-324-5456

To receive the more detailed offering or

To arrange for a private consultation

The foregoing information is provided for general informational purposes only and readers are encouraged to consult with their professional advisors as to their specific circumstances.

Bayshore Bank & Trust (Barbados) Corporation

Lauriston House, Lower Collymore Rock Drive, P.O. Box 1132, Bridgetown, Barbados

Tel: (246) 430-8650 Fax: (246) 430-5335



WELCOME TO THE WEALTH GUARD

If you have never considered the advantages of an “offshore trust,” the old adage “there is no better time than the present” has never been more appropriate because Bayshore now offers their trust services at no cost to you.

As tax laws become more onerous and complex in Canada, the United States and around the world, the need for investors to focus their attention on the opportunities and advantages of international tax and estate planning has never been greater.

Effectively representing high net-worth individuals through the implementation of an estate or tax plan is becoming increasingly difficult without introducing an international component into the planning process. Many of the strategies that estate and tax practitioners previously employed in assisting their clients to defer or eliminate taxation, shield assets from creditors and ensure confidentiality are no longer readily available in one’s domestic jurisdiction. In addition to the increased mobility of today’s high net-worth individual, clients tend to have assets domiciled in multiple jurisdictions. For these reasons, practitioners today more than ever, look to offshore jurisdictions to assist their clients in the preservation, creation, and succession of wealth.

At Bayshore we recognize the importance of international tax and estate planning as a vital complimentary component to our extensive product offering. We are also aware that such planning can never be static. To ensure its effectiveness, tax and estate planning must be an ongoing process of review and revision due to the constant changes in tax legislation.

The following pages present a comprehensive review of our “International Asset Protection Trust” offering.

For more information regarding how Bayshore can assist you or your clients with asset protection planning, do not hesitate to contact us at 1 (888) 324-5456, or by e-mail at invest@bayshore-international.com.

Sincerely,

THE MANAGEMENT TEAM



TABLE OF CONTENTS

	<u>Page</u>
SECTION 1: About the “Wealth Guard” Program	
Executive Summary	1
Why Asset Protection	2
Why Barbados	4
What is a Trust	5
Investment Management Options	6
Fee Schedule	7
SECTION 2: Getting Started with the Paper Work	
Getting Started – Client Questionnaire	8
Trust Application	11
Investor Profile Questionnaire	17



“WEALTH GUARD” EXECUTIVE SUMMARY

Reasons for Asset Protection Trusts

- Increased exposure for corporate directors
- Spiralling cost of indemnity and malpractice insurance
- Forced heirship laws
- Increasing litigation and high damage rewards
- The propensity of courts to disregard prenuptial contracts

Who Can Benefit from an Asset Protection Trust?

- Individuals with potential director’s liability, including:
 - i. Canadian Environmental Protection Act director’s fines and penalties
 - ii. Statutory provisions imposing director’s liability
 - iii. Liability for directors of charitable organizations
 - iv. Personal guarantees for lenders
- Professionals concerned about malpractice suits
- Individuals concerned with elimination of probate costs
- Individuals looking for alternatives to prenuptial agreements
- Individuals requiring protection from exchange controls

Why Offshore APTs are Superior to Onshore Asset Protection Alternatives

- Offshore trusts offer greater asset protection
- Offshore APTs are governed by the laws where the trust is domiciled and Canadian court rulings are not generally recognized by jurisdictions with asset protection legislation
- Offshore APTs are normally less accessible to creditors
- Creditor protection offered by “Segregated Funds” is still questionable and subject to changes in legislation

Why Bayshore “Wealth Guard?”

- No set-up fee
- Significantly lower cost than “Segregated Funds” and other alternatives
- Provides access to a wide variety of world-class investment managers



THE ASSET PROTECTION TRUST

“Preserving Wealth Today and Tomorrow”

The significant drop of North America’s stock exchanges, the propensity for litigation, and increases in business and financial risks have caused many North Americans to shift their focus from wealth accumulation to wealth preservation. The benefits of a properly structured “Asset Protection Trust” (APT) should now become a part of every high net-worth individual’s planning process.

During the unprecedented growth in the North American economy over the last decade, the tax planning focus of clients seemed to be on lessening their tax burden at any cost, thereby allowing for wealth to be amassed at a greater speed. Many of these strategies, however, were not without economic cost and risk.

Within the last two years, the once powerful North American economy has stalled and our stock markets have plummeted. Also, individual and corporate bankruptcies have become more predominant as we start the twenty first century.

Accordingly, with the changes in the North American economic situation and the predisposition towards litigation, the focus of many high net-worth clients has been reoriented towards wealth preservation. The concept of insulating assets from potential creditors is becoming an ever-increasing concern in all facets of financial and estate planning.

The following represent some of the concerns that have led to this transition from wealth creation to wealth preservation:

- i. Forced heirship laws which provide entitlements to certain individuals (i.e.: spouses and heirs);
- ii. The tendency of the courts to disregard prenuptial contracts;
- iii. The recent escalation of financial exposure for corporate directors and shareholders;
- iv. The spiralling costs of indemnity insurance;
- v. Depressed asset values;
- vi. The propensity for financial institutions to require considerable or additional security, personal guarantees etc., prior to advancing funds; and
- vii. The increasing exposure of professionals, manufacturers, etc., to the high cost of litigation and astronomical damages.

With some or all of the above factors causing increased concern among high net-worth clients, it is understandable why such an individual would choose to place his or her assets legally beyond the reach of creditors. The establishment of an “Asset Protection Trust,” in which certain assets are transferred to the APT rendering such assets free from the claims of creditors, is an attractive and legal method to do this.

In its simplest form, establishing a trust involves the transfer of property by an individual or a corporation (the “Settlor”), to a third party (the “Trustee”). While this third party is the legal owner, the Trustee is not entitled to any benefit derived from the settled property. In establishing the trust, the Settlor will determine at the outset which individuals or corporations the trust property will ultimately benefit.

In order to select a particular offshore jurisdiction there are several key factors that one must consider in addition to whether or not that particular jurisdiction has legislated adequate protection for APTs. Such factors include:

- i. Good external telecommunications;
- ii. Close proximity to the major markets of North America;
- iii. Political and economic stability;
- iv. Confidentiality; and
- v. An effective infrastructure that includes internationally trained lawyers, accountants, trust officers and bankers.

To ensure that the protection afforded by an APT to be effective, it is important that at the time the assets are transferred to the trust the Settlor be solvent, without any intent to wilfully defraud any creditor. Also, the individual must implement a proposed plan prior to any creditor claim. It is still possible to transfer assets to an APT after a creditor has launched a claim, however, there must be sufficient assets remaining in the home jurisdiction to satisfy the specific claim so as not to contravene the protective legislation.

There are essentially two advantages cited for transferring assets to an APT in a foreign jurisdiction. To begin with, the legislation provided in various offshore jurisdictions offers protection for the Settlor in shielding assets from potential creditors. Secondly, it is very difficult for a creditor to pursue a court action in a foreign jurisdiction, a task that on its own is usually an effective deterrent.

One of the key factors in selecting an appropriate jurisdiction to establish an APT is the degree of confidentiality. It is quite common for offshore jurisdictions to have legislation in place that legally prohibits the sharing of confidential information.

There are additional factors that individuals and their respective financial advisors should consider prior to establishing an APT in any foreign jurisdiction, however, in an article of this scope, not all of the nuances can be discussed. Other issues that should be investigated include the ability to appoint a protector, the ability to relocate the trust to another jurisdiction (flee provision), and the tax implications in the home jurisdiction.



WHY BARBADOS

Independent since 1966, Barbados is a well-developed, politically and economically stable state. It is an international business and financial centre that offers excellent and readily available services and internationally trained professionals. Most importantly, Barbados has earned a reputation as a “clean,” well-regulated jurisdiction and is determined to maintain this status. Barbados is unique in the Caribbean in that it has a treaty network with very significant partners such as the U.S., Canada, and the U.K., yet it offers a number of very low or no-tax vehicles, including trusts. This combination of tax efficient entities, plus low treaty protection makes Barbados a very attractive jurisdiction.

The island also has beneficial legislation that facilitates the protection of assets. The *International Trust Act, 1995* (the “ITA”), stipulates that the Barbados courts may not set aside or vary an International Trust pursuant to the laws of another jurisdiction in respect of marital, succession, or creditor rights. The ITA further permits an individual to protect his or her assets from the adverse effects of future litigation.

There are no registration or filing requirements for an International Trust, which is not a purpose trust. Further, stringent secrecy provisions have been included in the ITA to ensure that the confidentiality of all International Trust documents is maintained. The normal perpetuity period has been extended to allow an International Trust a life of up to 100 years. The period for which the trust income may be accumulated has been extended to the same amount as the perpetuity period.



TRUSTS

A trust is a transfer of legal ownership from one party, the Settlor, to another party, the Trustee. The Trustee holds the legal title of the trust property for the benefit of another, called the Beneficiary, and has an obligation to the beneficiary to preserve the property. This allows the trust to be treated as a separate legal entity from its Settlor and Beneficiaries, and allows it to hold property at arms length from creditors, as well as to be taxed as a separate entity.

Trust Deed

The deed is the written evidence of the trust and contains the provisions governing the administration, investment and distribution of the trust assets. It names the trust, the Beneficiaries, and sets guidelines for the governance of trust property. The trust does not set guidelines for investment. The assets of the trust include the initial contribution made by the Settlor, plus all other assets transferred to the trust over time, whatever the source.

Protector and Letter of Wishes

Many clients are anxious about the loss of control of their assets when a trust is created. The appointment of the protector provides an added level of comfort to monitor and ensure that the Trustees are abiding by the terms of the trust. Powers of the protector can vary, but generally include:

- Power to replace Trustees;
- Power to move jurisdictions;
- Consent to addition or exclusion of Beneficiaries;
- Consent to distributions

In order to prevent the trust from being declared invalid, the Settlor cannot maintain control of the trust through the protector, nor can the protector make demands - only suggestions - of the Trustee regarding distributions and Beneficiaries.

The letter of wishes is written by the Settlor and is attached to the trust deed. The purpose of this letter is to provide guidance to the Trustees as to the Settlor's wishes with regards to Beneficiaries, distributions, protector and investment management.

INVESTMENT MANAGEMENT OPTIONS

Bayshore firmly believes in the value of independent, long-term advice based on a consistent and superior investment management track record. Through Bayshore's close association with some of the world's leading asset managers, clients have exposure to advisors that are not traditionally available to individual investors.

By completing our Investor Profile Questionnaire, our team can create the right asset mix for your trust. Asset allocation is the key to maximizing returns while managing risk. Once your investment profile and requirements have been assessed, Bayshore will recommend the portfolio structure and asset mix that best addresses your trust's long-term goals. Our database consists of over 1,200 independent money management firms that are continuously analyzed to generate ratings and opinions on over 400 portfolio management services. The evaluation process is structured to consider each manager's history and potential.

Our current asset class options are as follows:

Canadian Money Market Fund	Global Equity Value Fund
U.S. Money Market Fund	International Value Fund
Euro Money Market Fund	U.S. Floating Rate Fund
U.S. Intermediate Bond Fund	U.S. Large Cap Growth Stock Fund
Canadian Equity Fund	U.S. All Cap Growth Fund
Investment Grade Convertible Bond Fund	U.S. Small Cap Value Fund
U.S. Large Cap Core Fund	Multi-Strategy Hedge Fund
U.S. Large Cap Value Fund	Special Situations Fund
Global Fixed Income Fund	Emerging Markets Fund