



Video Webcast

Video Webcast

# Domestic Asset Protection Trusts

**January 9, 2015**

10:00 AM - 5:00 PM ET

## Faculty

Edward D. Brown, CPA, JD — *Engel & Reiman PC*

John R. Garland, JD — *Engel & Reiman PC*

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# Program Outline

All times are shown in Eastern time  
Presented by Edward D. Brown and John R. Garland

- I. Overview - What is Integrated Estate Planning and Asset Protection Planning?**  
10:00 - 10:25
  - A. Definition of Asset Protection Planning
  - B. Why Asset Protection Planning?
  - C. Goals of Asset Protection Planning
  
- II. Self-Settled Spendthrift Trusts in General**  
10:25 - 10:50
  - A. Non-DAPT States
  - B. Spendthrift Clause
  - C. Restatement of Trusts
  
- III. General Themes and Drafting Requirements**  
10:50 - 11:15
  - A. Settlor Cannot be Trustee
  - B. Retention of Powers by Settlor
  - C. Appointment of Protector
  - D. Distributions to Settlor
  - E. Typical DAPT requirements
  - F. Statute of Limitations
  - G. "Quirks" in DAPT Laws
  - H. Exception Creditors
    - 1. Creditors Who Still Have Access to Trust Assets
    - 2. Examples of Exception Creditors
  - I. Other Uses for DAPTs
  
- IV. Examples of When to Use a DAPT**  
11:30 - 11:55
  - A. Premarital Planning
  - B. Professional Liability
  - C. Concerns Over Traditional Forms of Asset Protection
  - D. Additional Examples
  
- V. Factors to Determine Best DAPT Jurisdiction**  
11:55 - 12:20
  - A. Exception Creditors
  - B. Statute of Limitations
  - C. Retention of Powers by Settlor
  - D. Trustee Residence Requirements
  - E. Location of Assets
  - F. State Income Tax Considerations
  
- VI. Comparison of DAPT States: AK, DE, HI, MS, MO, NV, NH, OH, OK, RI, SD, TN, UT, VA, WY**  
12:20 - 12:45
  
- VII. Tax Compliance**  
1:15 - 1:40
  - A. Income Tax
  - B. Gift Tax
  - C. Estate Tax
  
- VIII. Combining DAPTs with Limited Partnerships and Limited Liability Companies**  
1:40 - 2:05
  - A. Separating Control from Ownership
  - B. Not All States are Created Equal
  
- IX. Fraudulent Transfers**  
2:05 - 2:30
  - A. Shielding Assets from Existing Creditors
  - B. Shielding Assets from Future Potential Creditors
  - C. Solvency
  - D. Non-Asset Protection Goals
  
- X. Ethical, Civil and Criminal Issues for the Planner**  
2:30 - 3:30
  - A. Aiding and Abetting a Fraudulent Transfer
  - B. Fraud vs. Fraudulent Transfer
  
- XI. Problems with DAPTs**  
3:45 - 4:10
  - A. Conflicts of Laws and Choice of Law
  - B. Full Faith and Credit Clause
  - C. Supremacy Clause
    - 1. Diversity Jurisdiction
    - 2. Federal Bankruptcy laws
  
- XII. Offshore Asset Protection Trusts**  
4:10 - 4:35
  - A. Reasons to Use a Foreign Jurisdiction
    - 1. Burden of Proof
    - 2. Standard of Proof
    - 3. Statute of Limitations
    - 4. Costs and Fees
    - 5. Foreign Court
  - B. Structure of Foreign Integrated Estate Planning Trust
  - C. Misconceptions About Foreign Integrated Estate Planning Trusts
  
- XIII. Case History/Study**  
4:35 - 5:00

\*If needed, the above agenda may be changed to best accommodate all of our attendees.

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## Our Distinguished Faculty

**EDWARD D. BROWN** is a principal in the Denver, Colorado-based law firm of Engel & Reiman PC, founded in 1984. Over the past twenty five years, Mr. Brown has developed extensive experience and expertise in the areas of business transactions and planning, taxation, and estate planning. He earned his B.A. degree, cum laude, from West Virginia University; his J.D. degree from the University of Denver; and his LL.M. degree from the University of Denver. Mr. Brown is also a Certified Public Accountant. He is admitted to practice law in Colorado and is a member of the American Bar Association, the Colorado Bar Association, the Denver Bar Association, and the American Association of Attorney-Certified Public Accountants. Mr. Brown speaks frequently to professional organizations on a wide range of legal subjects, including integrated estate planning, asset protection, and related subject matters. He has authored numerous articles on a variety of legal topics that have appeared in local and national publications, such as the *Journal of Taxation*, *Trusts and Estates*, *CPA Journal*, *Journal of International Taxation*, *The Tax Adviser*, *Asset Protection Journal*, and *The Colorado Lawyer*. In addition to being a contributing author of the third edition of CCH's *Asset Protection Planning Guide*, Mr. Brown has also served as a contributing author to *Asset Protection Strategies*, published by the American Bar Association and *The Colorado Estate Planning Handbook* (Orange Book Handbook), published by the Colorado Bar Association.

**JOHN R. GARLAND** is a principal in the Denver law firm of Engel & Reiman PC. Mr. Garland specializes in estate planning, asset protection planning, and taxation; and frequently speaks to professionals practicing in these areas. He has authored or co-authored a number of articles on related legal topics for various publications, including *Trusts & Trustees*, *Probate & Property*, *Estate Planning*, *Asset Protection Journal*, and *Offshore Investment*. He is a contributing author to the first, second, and third editions of CCH Incorporated's *Asset Protection Planning Guide* and is a contributing author to *Family Matters*, the First Western Trust Guide to Estate Planning. Mr. Garland earned his B.A. degree, in economics, cum laude, from the University of Notre Dame; his J.D. degree from the Georgetown University Law Center; and his LL.M. degree, in taxation, from the University of Denver. He is admitted to practice before the Colorado state courts, the U.S. District Court (Colorado), and the U.S. Tax Court; and is a member of the Denver and Colorado bar associations.

## Registration Details

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### Strategic Use, Drafting Requirements, Tax Compliance and More

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- Discover how to effectively draft your own DAPTs by looking at essential requirements.
- Learn key factors for determining what situations - and in what jurisdictions - DAPTs are most advantageous.
- Know how DAPTs work in your state by exploring important state-to-state variations.
- Avoid tax noncompliance by examining essential tax considerations for DAPTs.
- Review problems associated with DAPTs so you can anticipate and address them accordingly.
- Understand how to plan for and competently manage issues associated with foreign asset protection trusts.

## WHO should attend?

This beneficial legal program on domestic asset protection trusts is for attorneys. Financial planners, trust administrators, accountants and paralegals may also benefit.

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