Asset Preservation Trust

What is the St. James’s Place Asset Preservation Trust?

The St. James’s Place Asset Preservation Trust (the Asset Preservation Trust) is specifically designed to receive death benefits from most pension schemes.

Whatever your employment status, there is a good chance that there is some form of pension scheme established for your benefit. These are primarily designed to provide a pension in retirement, but can also provide valuable benefits for your dependants should you die either while working or before you reach age 75. This can represent a significant sum of money - for members of company schemes this can be a lump sum anywhere up to four times your salary and for those with personal pensions, even more.

For obvious practical reasons, you may have chosen for such benefits to be paid to your spouse, civil partner or partner (‘survivor’) however, the resulting proceeds would then form part of their estate. On death, this could potentially create, or increase a liability to Inheritance Tax (IHT) which could result in a loss of up to 40%. Other causes may result in 100% of your death benefits disappearing!

The Asset Preservation Trust is specifically designed to avoid some of the worst problems that can arise.

**Case study 1**

Barry Jones was married to Linda and they had two young children. He was employed as an IT consultant and earned £50,000 a year. He was a member of his company’s pension scheme, which provided death benefits of 4 times his salary of £50,000, a lump sum therefore of £200,000.

Tragically, he was killed in a road accident. He had nominated his wife to receive the death benefits from the company pension scheme.

Some years later, Linda passed away, leaving everything to her children. The £200,000 had grown in value to £350,000. Because of her other assets, IHT was payable on the full £350,000 at 40%, resulting in a tax bill of £140,000.

40% of the money has left the family!

This loss could have been avoided using the Asset Preservation Trust.
Case study 2

Sarah Davenport was the highly paid creative director of an advertising and media company. Her basic salary was £200,000. Bonuses added to that substantially in good years. Her company provided her with lump sum death in service benefits of 4 times her basic salary, making £800,000.

She was divorced and had nominated her three children to receive the cash if she were to die whilst employed. At age 50, she contracted breast cancer and tragically died 3 years later at the age of 53. Her children, Lucy, 23, and twins, Rory and Claire 20, each received £266,667.

Lucy, her eldest child, was married but the marriage didn’t last and three years later, Lucy and her husband were divorced. In the settlement, the Courts took into account Lucy’s £266,667 received from her mother’s pension scheme. Her ex-husband received £133,333, half of the £266,667.

£133,333 of the money has left the family!

This loss could have been avoided using the Asset Preservation Trust.

Case study 3

Stephen Carlyle was a finance director with a large chain of pubs. He was a widower with one son, David, 28 and two grandchildren. Stephen was paid £250,000 per annum. The company provided him with death in service benefits of £1 million, being 4 times his salary.

Whilst travelling by helicopter to a social engagement associated with business, the craft crashed and he was killed. He had nominated that the entire £1 million went to his son, David. The trustees of his pension scheme agreed to make payment in line with this nomination.

David was in business, but things weren’t going well. He had given personal guarantees on loans totalling £1 million. However, he only had equity in his home of £300,000.

David’s additional inheritance of £1 million from the pension scheme was thus welcomed by his bankers, who saw this as additional security.

Unfortunately, the business ultimately failed by which time the loans had increased to £1.5 million. The bank called in the loans and ended up as the ultimate beneficiary of the £1 million pension scheme money.

100% of the money has left the family!

This loss could have been avoided using the Asset Preservation Trust.
How would the St. James’s Place Asset Preservation trust have helped in these cases?

By expressing a wish to have death benefits made payable to the trustees of an Asset Preservation Trust set up by each of these three individuals, instead of directly to their families, they would have ensured that the benefits were not treated as the beneficiaries’ assets - yet they would still have had access to the money. This would have meant no IHT on Linda Jones’ death, Sarah Davenport’s ex-son-in-law would not have received half of his ex-wife’s share, and Stephen Carlyle’s son would not have lost his share to his bank.

How might it work for you?

The Asset Preservation Trust is established as follows:

You establish the trust with £10

You

Expression of Wishes

Pension Scheme Trustees

St. James’s Place Asset Preservation Trust

Death in Service Benefits

Beneficiary(ies) (including survivor)

Note that the ‘Expression of Wish’ is not legally binding upon the trustees of the pension scheme and payment may be made, for example, direct to your survivor. However, on most occasions the trustees will comply with your wishes.

What are the benefits?

The Asset Preservation Trust may preserve the value of the benefits received for subsequent generations through the avoidance of IHT.

The following example shows how using the Asset Preservation Trust may reduce the IHT liability and increase the amount of your joint estates passing to your beneficiary(ies) on the death of you or your survivor.
Mr Black who earned £75,000 pa, was a member of a pension scheme that offered a death-in-service benefit of 4 times salary. In addition, Mr Black had a personal pension fund from his days as a self-employed consultant that was valued at £124,000 at the time of his death. The other assets - jointly held - amounted to £500,000. Mr Black left behind a wife and two children from a previous marriage. On Mr Black’s death:

<table>
<thead>
<tr>
<th>Current Situation: Benefits paid to the widow</th>
<th>Possible Situation: Benefits paid to the Asset Preservation Trust</th>
</tr>
</thead>
<tbody>
<tr>
<td>Death-in-Service Benefit (£75,000 x 4 + £124,000)</td>
<td>£424,000</td>
</tr>
<tr>
<td>Mrs Black’s other assets (inc. house)</td>
<td>£500,000</td>
</tr>
<tr>
<td>Total value of Mrs Black’s estate</td>
<td>£924,000</td>
</tr>
</tbody>
</table>

Inheritance Tax Liability

<table>
<thead>
<tr>
<th>Mr Black used his nil rate band on his death</th>
<th>(£739,600)</th>
<th>(£70,000)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net value of estate</td>
<td>£684,400</td>
<td>£430,000</td>
</tr>
<tr>
<td>+ value of Asset Preservation Trust</td>
<td>–</td>
<td>£424,000</td>
</tr>
<tr>
<td>Total value to eventual beneficiary(ies)</td>
<td>£684,400</td>
<td>£854,000</td>
</tr>
</tbody>
</table>

The use of the Asset Preservation Trust has achieved:

• an IHT saving of £169,600 on the death of Mrs Black
• an increase of approximately 25% in the size of the estate for the ultimate beneficiary(ies)
• peace of mind that both Mrs Black and Mr Black’s children from a previous marriage can benefit as he intended.

While the Asset Preservation Trust is primarily designed to preserve the value of your estate for future generations, without restricting access to income and capital for your survivor, it can also offer other benefits:

• The IHT savings can be enhanced by providing your survivor with an income or capital in the form of a loan. This creates a debt on their estate and therefore further reduces their own estate for IHT purposes.
• It is very flexible and, by carefully selecting your trustees, you can ensure benefits reach your intended beneficiary(ies) in the way you intended. For example, if you are married but have children from a previous marriage, you can leave your survivor with an income payable for the duration of their life, with the remaining capital being left to your children.
• As benefits are not directly owned by your survivor, should any form of long-term care provision be required, the Local Authority will be unable to include the trust fund when conducting a ‘means test’. This could preserve the estate for your eventual beneficiary(ies), although it may be possible for the trustees to ‘top-up’ the value of any benefits provided by the Local Authority.

• It aims to prevent your survivor from passing the money onto others who you might not necessarily choose to benefit. For example, if they remarry, your own children may be excluded from benefiting from these funds without the Asset Preservation Trust.

• Monies left in trust in this way would be protected from any claim made against your survivors by creditors. This may be useful if they have given a personal guarantee, perhaps in business, or to support a sibling.

• The Asset Preservation Trust is a discretionary trust and as such may be subject to IHT periodic and exit charges. However, at a maximum rate of 6% every ten years over the prevailing nil rate band against up to 40% of the entire sum, the Asset Preservation Trust still provides valuable protection against IHT. This trust also affords significant protection from claims made by others against the family members who might otherwise have received funds from the pension scheme, as outlined in the case studies above.

### Which pension schemes’ benefits may pass to the Asset Preservation Trust?

The Asset Preservation Trust can be used to receive monies from a variety of pensions, including the following:

• Occupational Schemes
• Personal Pensions (excluding Retirement Annuity Contracts)
• Additional Voluntary Contribution Schemes (including Free Standing AVCs)
• Small Self Administered Schemes
• Self Invested Personal Pensions
• Funded Unapproved Retirement Benefit Schemes
• International Pension Schemes.
Offshore Asset Preservation Trust (OAPT)

Where you wish to use the Asset Preservation Trust but have concerns over your family or friends being selected as trustees, either because of their lack of experience or the onerous duties and responsibilities imposed upon them in the future, you may wish to consider the Offshore Asset Preservation Trust.

Whilst the onshore and offshore trusts achieve similar objectives, the key difference is the automatic appointment of professional trustees through St. James’s Place Trust Company Jersey Limited with the Offshore Asset Preservation Trust.

With the offshore version, the trust is not created with an actual gift of £10 but with a promise to pay £10 to the trustees if and when they request it. Without the need for this £10 and the unnecessary appointment of trustees (who are appointed automatically), the process and paperwork is streamlined.

The Offshore Asset Preservation Trust offers greater simplicity of administration, further wealth protection and most importantly, removes the onerous duties and responsibilities otherwise placed on your family and friends in the future. Additionally, the professional trustees are not led by personal involvement and will therefore remain impartial in considering the needs of any trust beneficiaries.

Next step

If you have significant death-in-service benefits and want to protect these from either IHT payable on the death of your survivors, or to protect them from claims by others such as banks and ex-family members, you should look at the Asset Preservation Trust. Where you feel it would be more appropriate to appoint professional trustees, you should look at the Offshore Asset Preservation Trust.

If you would like to know more about the Asset Preservation Trust/Offshore Asset Preservation Trust or any of the products or services available as part of the St. James’s Place Approach to Trust and Estate Planning, please contact your St. James’s Place Partner.

Please note that neither the St. James’s Place Asset Preservation Trust nor the Offshore Asset Preservation Trust are regulated by the Financial Services Authority (FSA). However, the St. James’s Place Trust Company Jersey Limited is regulated by the Jersey Financial Services Commission.

This leaflet represents our current interpretation of the law and HM Revenue & Customs practice.