

# THE SHIELD

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## The Private Contract Trust and the Limited Liability Company The Best Estate Plan and Business Structure Available

Unfortunately, asset protection and estate planning are not part of our American culture. Most of us do not even have a will or any plan to protect our assets or pass them on to our children or others of our choosing. The most commonly used estate resolution methods are a Last Will and Testament or a variety of Living Trusts. These techniques are dinosaur antiques when compared to the Irrevocable Contract Trust. If we own personal assets and real estate, we are, of course, liable for them.

**The objective of the contract trust is for you to own nothing, but, as trustee, be in control of everything you now and in the future possess.**

**Furthermore, the Contract Trust provides the ability to pass all of its property on to the control of your children or whomever you wish, tax free, whenever you wish.**

The Contract Trust has successfully preserved estates for centuries. It has withstood the tests of time and the courtroom. It has been used for generations by families to preserve their fortunes. Whether your business is a dot-com, multimillion-dollar conglomerate, network marketing, home based consulting, or a start up "Mom and Pop", it will work for you. It is 100% legal, and very easy to use. Alternatively known by many names, including Common Law Trust, Pure Trust, True Trust, Business Trust or Unincorporated Business (Trust) Organization (UBO), **it is simply a contract in trust format.** It derives its legality and lawfulness from the Constitution of the United States of America, Article I, Section 10 which preserves and protects the unalienable rights of all Americans to enter into a contract.

For personal estate planning and asset protection the Contract Trust can be designed to accomplish

many of your personal objectives. The Contract Trust owns all of the financial assets such as stocks, bonds, mutual funds, savings accounts and insurance policies.

For those assets you receive Trust Certificates of beneficial interest. You, as part of the process, may be appointed the Trustee of the Trust and manage the assets that were formerly yours. A highly liable asset, such as income real estate, which creates significant potential liability, optimally should not be placed in the same Trust with your personal financial assets. Additionally, if other investment real estate is owned, these properties should also be placed in separate Real Estate Trusts. Having title to property in your name greatly increases your exposure of a potential lawsuit.

A creditor, by running a title search based on your social security number, can access your assets and target them. Properly placing your assets in a private contract trust company with or without its own Employer Identification Number can help shield assets because you do not own those assets, you only manage them. This offers you a chance to bargain with legitimate creditors from a position of strength and have protection from those who are illegitimate.

It is a time-honored axiom, "The more assets you have the greater the target you are." Liability follows ownership and becomes a logical consequence and problem of ownership.

A Contract Trust is the most powerful estate-planning tool known; it is a means to reducing taxes, protecting assets, and preserving privacy.

**There are many advantages to a Contract Trust when used for personal and or business affairs:**

1. Privacy in personal and business dealings.
2. Extensive control over what you've acquired and accomplished.
3. Reduced exposure from potential lawsuits and claims of adverse parties by maintaining an effective "empty pockets" program. Reduced liability when owning and operating a high risk asset or performing high risk professional services.
4. Increased profits via reduced business costs and insurance premiums.
5. Flexibility and creativity in personal, financial and business planning.
6. Simplicity of doing business in our complex society, including buying and selling big-ticket capital assets, businesses and real estate.
7. Preserve & distribute assets at your sole discretion.
8. Avoid probate and eliminate death taxes.
9. Reduce or avoid federal and state income/franchise taxes.
10. The trust may develop its own credit and investment program to provide security and protection for the beneficiaries at retirement. It can also solve alternative lifestyle living arrangements.
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***The Limited Liability Company***

If you have a business of any kind, operating it through a Limited Liability Company may be a better answer than your current business organization. In many circumstances the LLC can be used as an alternative to a corporation. Individuals who are concerned with tax savings will find that the LLC has no direct income taxes, and is more convenient and flexible to operate and maintain.

**Background**

The Limited Liability Company is a membership organization. It is a legal entity created by state statute and permitted in all fifty states. The purpose of the LLC is to allow individuals to conduct their financial and business affairs in an efficient and accessible manner. It combines the best features of corporations and partnerships

while eliminating many of the problems and complexities associated with each.

The LLC provides the liability protection of a corporation without the extensive formalities of corporate minutes, bylaws, directors and shareholders. At the same time, the LLC is treated like a partnership for tax purposes. That means that the LLC pays no income tax at all. All of the net profits flow through directly to the Members' personal tax returns. Further, like a partnership, the owners are permitted to adopt very flexible rules regarding administration and operation of the business of the LLC.

**Advantages of the LLC**

To understand the significant benefits offered by the LLC let's look at a typical example.

John and Mary Smart own a business or investment property such as a duplex or an apartment building as tenants-in-common. Holding the property as they do now exposes them to great risk. All of their personal assets are exposed to liability from anything that might go wrong concerning the business or building. Injuries to tenants or others, problems with lenders, lawsuits from future buyers, all subject everything that John and Mary own to potential liabilities from ownership of the property.

To make matters worse, a personal lawsuit or claim against John or Mary from a situation not at all related to the business or building exposes the property to that claim. Clearly, owning the business or planning to own the apartment building in this traditional manner is not sound business. What other options are available to them?

**A Corporation May Not Be the Best Option**

John & Mary could transfer the property to a corporation (stock company). Each would own 50% of the stock in the company. The law provides that the shareholders are not responsible for debts of the corporation, so a liability arising out of the property would not subject John and Mary's personal assets to danger. But they will have a protection problem against liability if all of

the complex corporate formalities have not been carefully followed. Because most people do not maintain proper corporate records and documentation, corporations often do not provide the intended level of protection. Also, corporations are subject to more complex tax codes, which can cause severe and unintended consequences. Finally, the corporation will not offer protection of the property from outside claims, or lawsuits against John or Mary that are unrelated to the property. A creditor can simply seize their stock (their personal property), which they own and get hold of the apartment building by dissolving the corporation. For these reasons it is generally not advisable to hold investment real estate in a corporation.

### **Limited Partnerships Expose the General Partner to Danger**

John and Mary can form a Limited Partnership to hold the property, with one or both of them serving as the General Partner. The General Partner, depending upon the state, often has unlimited liability for the debts of the partnership; thus if something happens with the apartment building the General Partner's assets will be exposed to that claim. The major problem with the Limited Partnership format is the unlimited liability of the General Partner. From a tax standpoint the Limited Partnership does not cause any adverse tax consequences and, as previously discussed, an outside creditor of John or Mary would not be able to reach the property in the partnership. A creditor suing John or Mary for an outside liability would be limited to a charging order, which would not affect the property.

### **An LLC solves these problems**

By forming a Limited Liability Company, which is a Membership organization, not a stock company, John and Mary Smart can accomplish all of their control objectives.

### ***Protection from inside liability***

The law provides that a member of an LLC is not responsible for the debts of the company. John and Mary, as Members of the LLC, would therefore be protected from any claim relating to the apartment building.

### ***No Formalities***

A Limited Liability Company is not required to keep minutes and extensive documentation. The LLC cannot be pierced and the Members cannot be sued because of a failure to follow formal procedures. Record keeping requirements can be minimized without the threat that the Members can be sued individually for a liability of the LLC.

### ***Protection from Outside Liability***

Property held in a Limited Liability Company cannot be seized by a creditor of a Member. As is the case with the Family Limited Partnership, assets of the LLC are protected from potential claims against a Member. The creditor is limited to the charging order remedy.

### ***Tax Treatment***

All income of the LLC is passed directly to the personal returns of the individual Members. This avoids the complications and potential double taxation, which plagues the corporate format. In the event of a future lawsuit against the Members (John and Mary), the assets of the LLC cannot be seized by the creditor because John and Mary do not own them, they only manage them.

### **Limited Liability Company Structure**

In the typical case, the husband and wife form an LLC. Each is a Member owning a 50% interest. The LLC organized business is a flexible, accessible strategy for protecting a business, its Managers and family wealth from the threat of lawsuits and claims while the owners are alive. A downside to the LLC or the Corporation is when the owners die their shares and personal assets are subject to the costs of legal and government intervention and inheritance taxes. These issues are mitigated by the use of the LLC and the Contract Trust in concert.

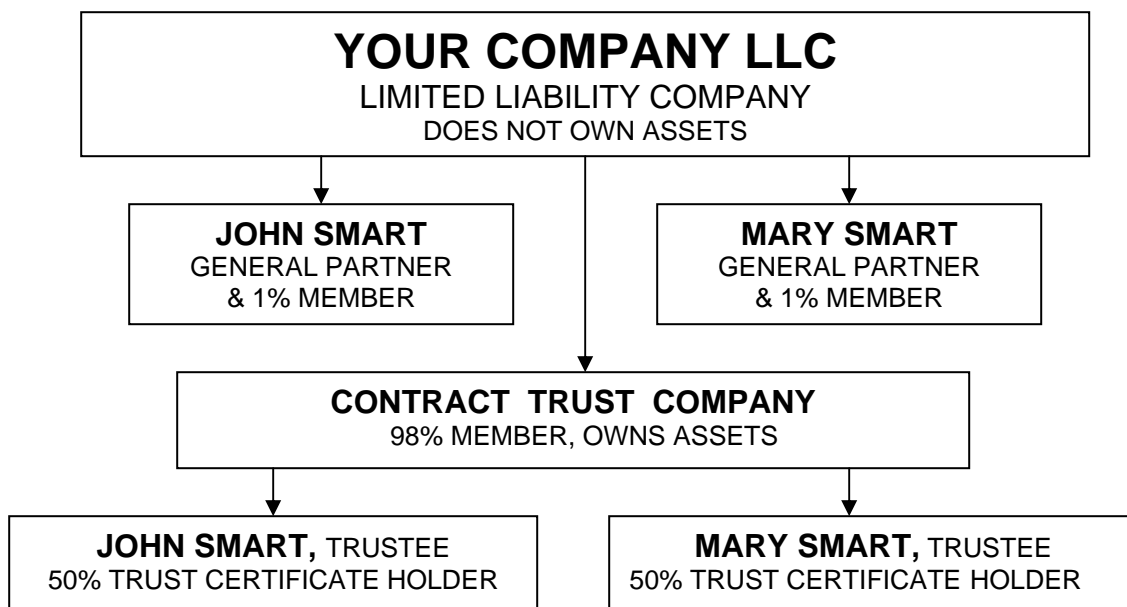
### **A Limited Liability Company and the Contract Trust Are Your Best Options.**

Combining the Limited Liability Company with a Contract Trust affords all of the tax advantages and protection of the LLC and the all of the privacy, security and additional tax advantages of the Contract Trust. In this case, John and Mary

(husband and wife) as Members, each own only 1% and the Contract Trust, also a Member, owns 98% of the LLC. (Note: There can also be other members dividing the 98%.) The LLC does the banking and business operations; its untaxed profits are distributed to its Members. The Husband and Wife each claim their 1% as 1040 income, while the Contract Trust claims the remaining 98%. The Contract Trust owns valuable assets such as stocks, bonds, mutual funds, insurance and annuity investments and other earnings, the 98% LLC Membership and other savings. This combination offers the optimum liability protection for both organizations. It also offers a second opportunity to deduct IRS allowed business expenses that are generated within the trust. **There are more allowable tax deductions**

**for home-based businesses than any other form of business organization.** Using an LLC and Contract Trust for a home-based business allows one to take advantage of all of these IRS approved tax deductions.

Separate contract trusts or Real Estate Trusts should be used to hold rental or other investment real estate to shield you and your other assets from any liabilities associated with those other properties. With the use of an LLC in concert with a Contract Trust, Members' shares and assets can be passed on to survivors, tax free, without government or any legal interference. The combination of a Limited Liability Company and the Contract Trust offers the best business structure and estate preservation plan available.



Organization chart showing YOUR COMPANY, LLC (the Limited Liability Company) and its membership organization, consisting of John & Mary Smart owning 2% & the Contract Trust Company owning 98%. **The LLC does not own assets.** Income from various marketing or business activity flows through YOUR COMPANY LLC. It hires John and Mary to operate the LLC business venture. YOUR COMPANY LLC operates a general business, pays employees & related business taxes and files IRS form 1065 utilizing IRS form K-1 for distribution of net profits to its Partners and Members on a percentage basis as shown above.

The Contract Trust owns 98% of YOUR COMPANY LLC. **The Trust Company owns the assets,** and has the option of operating as a business or acting as a holding organization. At any time, John and Mary, Trustees of the Contract Trust, can decide that they wish the Contract Trust to invest its assets or begin a business. The Contract Trust may distribute income to John and Mary, as Certificate Holders, on which they (John and Mary) pay taxes as 1040 income. YOUR COMPANY LLC, with its Taxpayer Identification Number, can open a bank account for the Contract Trust, or the Contract Trust can get its own EIN number.