

# Planning to Avoid Pitfalls: Asset Protection Trusts Thirteen Years After Enactment

## Article

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Trusts, Estates & Tax Group and Commercial Law Counseling Group partner Todd Flubacher authored *Planning to Avoid Pitfalls - Asset Protection Trusts Thirteen Years After Enactment* featured in the Winter 2010 edition of Delaware Banker magazine.

The article not only examines amendments to the Delaware Qualified Dispositions In Trust Act in the thirteen years since its enactment as it relates to establishing a so-called Delaware asset protection trust ("DAPT") but also focuses on the many questions that planners and their clients must consider when structuring a DAPT, such as:

- The Impact of Bankruptcy Code Sections 548(e) and 541(c)(2) on DAPTs
- Chancery Court decisions regarding challenges to the propriety of transfers to DAPTs Drafting Issues
- Creditor arguments to get access to DAPT assets
- Concerns raised by facts surrounding a DAPT's creation or administration
- Choice of and the timing of contribution of assets to a DAPT
- Fraudulent transfer analysis

**Click here to download a copy of *Planning to Avoid Pitfalls - Asset Protection Trusts Thirteen Years After Enactment***

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Todd A. Flubacher, "Planning to Avoid Pitfalls: Asset Protection Trusts Thirteen Years After Enactment," *Delaware Banker Magazine* (Winter 2010)

## PROFESSIONALS

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**PRACTICE AREAS**

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