



PEAK TRUST COMPANY

Part 3

Legal Logistics & Implementation of Private Retirement Trusts (PRTs)

Structuring, Implementing, and Administering a Compliant Plan

PRESENTED BY
DUSTIN NICOLS

WEBINAR

PRIVATE RETIREMENT TRUST SERIES

Private Retirement Trust Series

Part 1



**Introduction to
Private Retirement Trusts**
July 8, 2025 | 12PM PST

Part 2



**Planning a Retirement
Purpose with
Private Retirement Trusts**
July 10, 2025 | 12PM PST

Part 3



**Legal Logistics &
Implementation of
Private Retirement Trusts**
July 15, 2025 | 12PM PST

Part 4



**Private Retirement Trust
Funding Basics**
July 17, 2025 | 12PM PST

Have a Question?

- Please use the **Q&A panel** to submit your questions at any time during the session.
- Questions will be answered **live throughout the session** as time allows, or **via follow-up after the webinar** if we don't get to them all.
- Thank you for joining us today!



Work with people who understand trust.

Peak Trust Company sets itself apart by providing:

- Prompt responses to complex questions
- Fast and efficient account opening process
- Direct access to expert team as a resource for help with new jurisdictions and advanced techniques



Founded in 1997 in Anchorage, Alaska



State chartered in top jurisdictions
Alaska and Nevada



Works with **1,500+** estate planners across the nation



Serves **2,500+** families residing in **all 50 states** and many countries



\$12 billion+ assets under administration



50 employees, no commissioned sales



Privately held

Today's Speaker



Dustin I. Nichols, Esq.

Managing Attorney

The Law Office of Dustin I. Nichols, A PC

Dustin I. Nichols is the Managing Attorney at The Law Office of Dustin I. Nichols, A PC in Newport Beach, California. For over 30 years, he has provided clients with common sense and uncommon thinking in integrated domestic and foreign corporate, estate, and business planning strategies, with a focus on niche retirement planning for California business owners. His practice spans entity formation, estate planning, trust administration, transactional matters, litigation, risk mitigation, and creditor exemption planning. He regularly advises on Integrated Estate, Corporate, and Integrated Exemption Planning structures, including the California Private Retirement Trust (PRT), and is often called upon by bankruptcy and litigation attorneys to assess the validity of complex asset protection plans. His deep knowledge of digital assets and blockchain technology enables him to offer clients the unique option of funding PRTs with cryptocurrency.

Dustin is a published author and frequent speaker on asset protection and retention strategies, having been featured in The Orange County Lawyer, Bloomberg Tax, and First American Trust Quarterly. He leads educational workshops and lunch-and-learns for CPA firms, RIAs, and insurance professionals on the PRT. He holds a Juris Doctor from Western State University College of Law and a Bachelor of Arts in Political Science from California State University, Northridge. He is a member of the California State Bar, certified before the U.S. Tax Court, and licensed to practice before the United States District Courts in the Eastern and Central Districts of California.

Introduction to PRT Planning Logistics

PRT Planning Recap

- Phase 1: Due Diligence Engagement
 - Exemption Assessment Report
 - Solvency Review & Affidavit
 - Litigation and/or Potential Liability Analysis (if necessary)
- Phase 2: PRT Engagement
 - Part A: Retirement Appraisal
 - Part B: Creation of PRT
 - Part C: Implementation of PRT
- Phase 3: Annual PRT Administration

Phase 1: Due Diligence Review

- Exemption Assessment Report
- Solvency Review and Affidavit
- Litigation and/or Potential Liability Analysis (if necessary)

PRT Asset Questionnaire

Real Property			
TYPE: Any interest held in your name in real estate including your residence, vacation home, rentals, timeshare, vacant land, etc.			
General Description and/or Address	Owner	Market Value	Loan Balance
	Total	\$ 0.00	\$ 0.00

Furniture and Personal Effects		
TYPE: List separately only major personal effects such as jewelry, collections, antiques, furs, and all other valuable non-business personal property (indicate type below and give a lump sum value for miscellaneous, less valuable items.).		
Type or Description	Owner	Market Value
Miscellaneous Furniture and Household Effects (Total)		

PRT Calculator






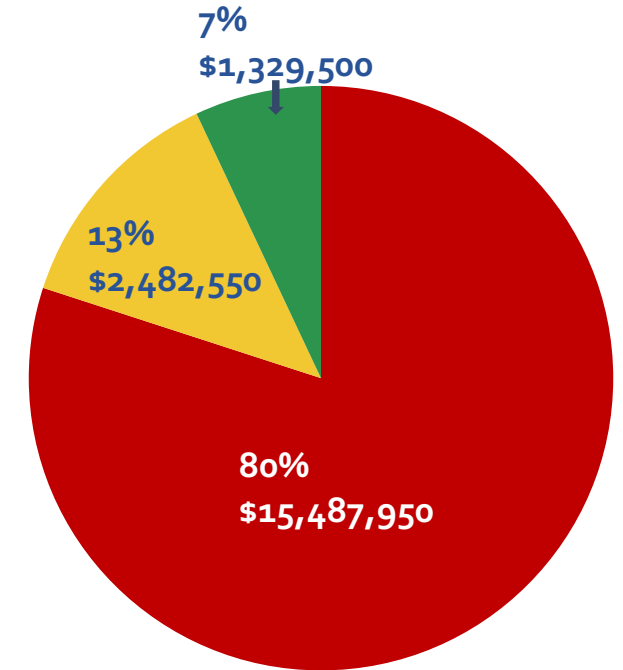
Tom - \$20,000,000 Net Worth Client

- 57 year old with a projected retirement age of 65
- Married, no children
- Business Owner from Orange County
- \$900,000 annual income
- \$7,100,000 commercial real estate
- \$3,300,000 principal residence net equity
- \$2,500,000 single shareholder S-Corp
- \$2,300,000 stock portfolio
- \$2,300,000 cash
- \$1,000,000 ERISA qualified pension plan
- \$700,000 life insurance
- \$500,000 personal property
- \$300,000 rollover IRA

Tom's Creditor Exposure Report

Exemption Assessment Report

-  **No Exemptions = Fully Exposed**
These assets are fully exposed to creditors, lawsuits, and bankruptcy.
-  **No Exemptions = Limited Protection**
These assets can be tactically attacked and potentially seized. It is critical you have these reviewed.
-  **Basic Exemptions = Offers Protection**
These assets should be protected but you will want to ensure they are being properly administered to protect plan distributions.



*Your Total Net Worth: \$20,000,000

Your Current Exempt Assets are: \$1,957,450 or 10% of your Total Net Worth

Tom's Retirement Exemption Protection Potential

Your Total Protection Potential is: **\$17,212,050** or **86%** of your current assets!

1. Protect **\$12,012,050** of your current equity by recharacterizing assets as "exempt" for your retirement.
2. Protect **\$5,200,000** of additional equity using strategic exemption retirement planning.
3. Protect **\$1,755,833 - \$3,511,666** of future earnings by utilizing the PRT Accelerator.
4. You've selected **Orange County** which has a **\$722,151** homestead exemption.

Your Strategic Exemption Plan:



Not Exempt = Still Exposed

Your capital risk is minimized to your current lifestyle savings only.



Minimized Exposure = Potentially Protected

Your limited risk is reduced substantially but should employ additional risk-management tactics.



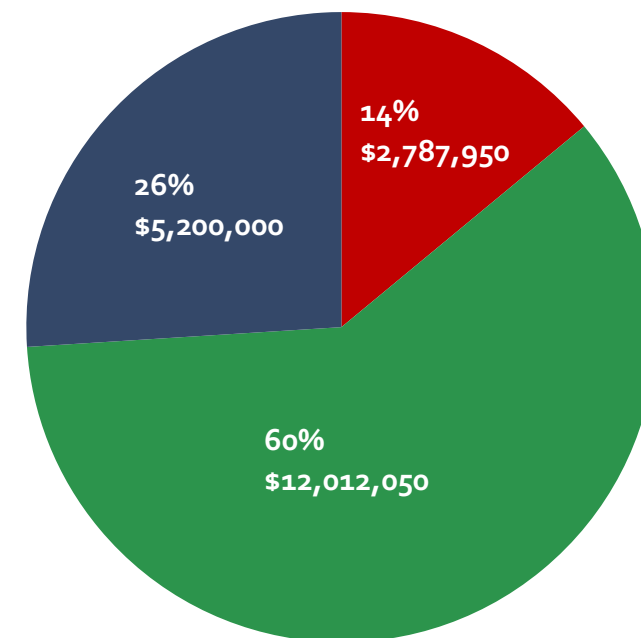
Recharacterized as Exempt = Protected

Over and above your qualified plan assets, your private assets that can recharacterized as exempt for your retirement.



Strategic Exemption Planning = Protection of Future Values

You can use your future earnings capacity and recaptured tax savings to protect future estate values as well as current equity assets – including your business assets and home equity.



*\$1,755,833 - \$3,511,666

Strategic Protection: Future Income Protection Range based on the cone of uncertainty. Even after you've protected your home and business, you can also potentially protect this additional amount of future income.

Solvency Review

- Net Worth Statement
- Solvency Affidavit



Litigation and/or Potential Liability Analysis (if necessary)

Extensive review of potential for personal liability resulting from

- Judgments
- Threatened, Pending or Expected Claims, Litigation Cases and Administrative Proceedings
- Guarantor Agreements
- Indemnity Agreements
- Spousal and Child Support orders

LAW OFFICE OF DUSTIN I. NICHOLS, A PC.

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Author:
“Asset Protection Strategies and
Forms”
(James Publishing)

April 28, 2025

Tom Smith
1111 Main Street
Irvine, CA 92618
Sent via US Mail and Email

RE: SUMMARY OF DUE DILIGENCE FINDINGS AND RECOMMENDATION

Dear Mr. Smith,

You have engaged us to perform a due diligence review of your current factual circumstances in order to determine whether you are a proper candidate to establish a Private Retirement Trust (PRT) in accordance with California Code of Civil Procedure § 704.115(b), which provides California residents with the right to fully exempt the assets of a private retirement plan (with the exception of the IRS, family, spousal and child support obligations). To that end, please accept this letter as a summary of our due diligence findings regarding our engagement.

DUE DILIGENCE REVIEW

After careful consideration of your current factual circumstances, including but not limited to the items discussed below, coupled with your intent to protect and preserve assets for retirement purposes, we are of the opinion that you **(ARE OR ARE NOT)** are a viable candidate for the creation of a PRT. Our recommendation is again predicated on your ability to affirm the following...

Phase 2: PRT Engagement

Part A: Retirement Appraisal

Part B: Creation of the PRT

- Private Retirement Plan
- Private Retirement Trust
- Private Retirement Plan Trust Adoption Agreement
- Funding

Part C: Implementation of the PRT

- The PRT Integrated Team – Nomination and Appointment
 - PRT Retirement Planner
 - PRT Trustee
 - PRT Nestor (Investment Advisor)
 - PRT Pylortes (Trust Protector)
 - PRT Plan Administrator
- Coordination and Collaboration



Part A: Retirement Appraisal

- Tells the retirement story
- Establishes the retirement need
- The resulting calculations **prove-up** the Participant's **retirement need** and provide a roadmap for the appropriate annual funding that would be required to fulfill that need



Part B: Creation of the PRT

At a minimum:

- Proper and supportable retirement analytics (Retirement Appraisal)
- Retirement Plan sponsored by an employer company
- Private Retirement Trust to hold the retirement assets
- Independent custodian (PRT Trustee)
- Annual administration and maintenance

The Private Retirement Plan

- Sponsored by an Employer Company – may be wholly owned corporation
- Establish policies and procedures regarding:
 - Eligibility and participation in the Plan
 - Contributions – permitted and prohibited
 - Recharacterization of assets
 - Options regarding distributions
 - Plan loans
 - Administrative matters

The Private Retirement Trust (PRT)

- Trust created for benefit of Participant
- Exemption protection vehicle that will hold the retirement assets
- Contains customized provisions based on the particular needs of each beneficiary
- Establishes the policies and procedures for the administration of the retirement assets such as funding and distributions
- Requires a skillful and proficient PRT Integrated Team to realize its purpose

Retirement Purpose

Must be principally or primarily designed and used for retirement purposes

- Since statutory guidance is lacking, the policies and procedures of the Plan and the PRT must be designed in consideration of case precedent, which provides an idea of which provisions and actions have been deemed acceptable and which will negate the retirement purpose

The Private Retirement Plan Trust Adoption Agreement

- Sponsoring Company adopts the Plan
- Designates the Plan Participants
- Specifies particular terms for the Plan such as retirement age, vesting options and permitted contributions



Part C: Implementation of the PRT

Proper structure, funding and administration of the PRT requires extensive coordination and collaboration by the PRT Integrated Team



Participant

- Must be an Employee of the Sponsoring Company
- Participant receives retirement benefits pursuant to the terms of the PRT Plan
- PRT is customized for the particular needs of each Participant
- Participant executes Beneficiary Designation to earmark proceeds to spouse, heirs, or other estate planning trusts upon death

PRT Retirement Planner

- Designs the Retirement Plan and corresponding Retirement Appraisal
- Establishes initial PRT funding matrix and amounts (lump sum + gradual accumulation)
- *Optional:* Retirement Planner may also serve as the PRT Nestor providing additional benefits of familiarity with the Retirement Plan and purpose

PRT Trustee

- Independent Trustee is preferable
- Legal title holder of all assets held by the PRT
- Bound by fiduciary duties
- Performs management and administrative functions
- Post-Retirement Administration including effectuating distributions
- Collaborates with all PRT Team Members
- Assist in annual administration, including preparation of PRT Annual Benefits Statement

Duties & Powers of PRT Trustee

- Defends the Trust
- Enforce asset exemption protection under the California statute
- Ensure proper analysis, cash flow, management, and administrative decisions are made in furtherance of the PRT Retirement Plan objectives to mitigate risk
- Provides active asset management to the PRT assets
- Acts in all matters concerning risk management toward preserving the PRT principal

PRT Trustee Powers & Limitations

- Acts upon the direction of the PRT Nestor (if any) with respect to investments
- Special Co-Trustee required for transactions involving digital assets

PRT Nestor (Investment Advisor)

- The office of PRT Nestor is optional but recommended
- Separates investment decisions from the other responsibilities of the PRT Trustee allowing for more specialized investments of Trust Property
- Monitors investment performance benchmarks set forth in the PRT Retirement Plan to ensure retirement goals are achieved in order to pay the Plan Participant retirement benefit payments
- Primary function is to ensure investment and asset performance benchmarks are realized in order to effectuate the success of the PRT Retirement Plan
- PRT Nestor has the power to compel the PRT Trustee to invest in any type of investments
- Bound by fiduciary duties
- Benefits from PRT Retirement Planner also serving as the PRT Nestor
- Office of PRT Nestor is optional

PRT Pylortes (Trust Protector)

- Support the Participant in achieving the goals and objectives of the Trust
- Direct the PRT Trustee in any matters concerning the Trust
- Power to remove and appoint (as necessary) any current and acting PRT officeholder
- Power to amend, alter or modify the PRT
- Power to petition the court

Checks and Balances by the PRT Pylortes

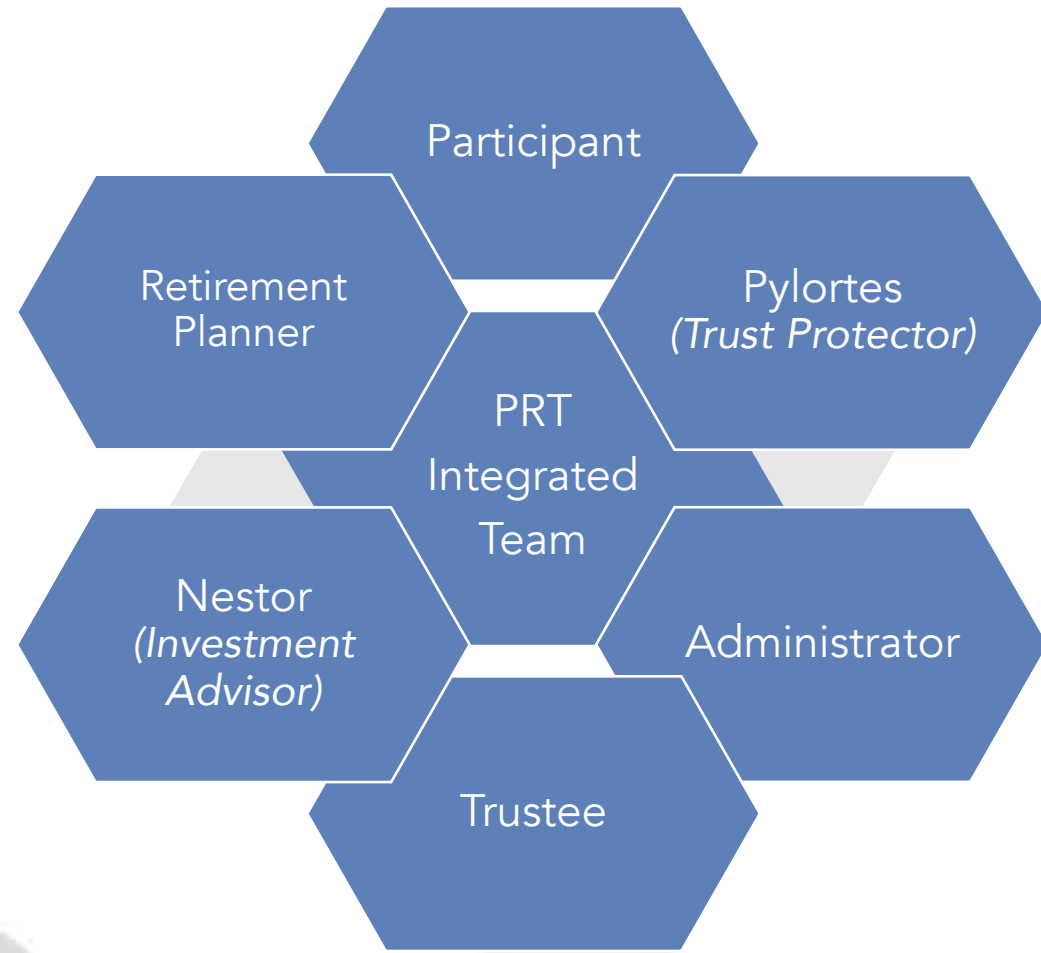
- Ensures continuity and collaboration of the PRT Trustee and PRT Nestor
- Override the decisions of the PRT Nestor if done in bad faith, with gross negligence, or not in furtherance of the goals of the Retirement Plan
- Settle any controversies or disputes concerning or arising out of the interpretation of any language of the PRT

Trustee

- Tracks Plan activity including contributions, distributions, and transactions with the PRT such as loans and promissory notes.
- Generates financial statements, annual statements, benefit statements.
- Reports all information to the PRT Trustee and the Participant.
- Subject to removal and replacement by the PRT Pylortes.
- Confirm Plan is being followed and activity is documented.
- Ensure annual funding to make certain the Participant's retirement goals are realized.
- Evaluate the Retirement Appraisal in light of the Participant's changed circumstances (such as net worth, income, and expenses) to maximize exemption potential and avoid overfunding.

Coordination & Collaboration

The PRT integrated Team Members work together to ensure the success of the PRT so the Participant's retirement goals are realized



The Result

- Properly Designed and Used
- Continuous collaboration among PRT Integrated Team Members
- Yearly Maintenance
- Protect a Participant's retirement assets by recharacterizing the assets as exempt under CCP § 704.115(b)

Connect with Dustin



The Law Office of Dustin I. Nichols, A PC

For a complimentary 30-minute
Integrated Exemption Planning consultation
with Dustin Nichols, contact
Sarah Bracken at SarahBracken@dinapc.com
or call 949.240.1101



Dustin I. Nichols, Esq.

Managing Attorney

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Thank you for attending!



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